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LEGAL AID IN DONETSK AND LUHANSK OBLASTS

ASSESSMENT OF THE ACCESSIBILITY OF THE FREE LEGAL AID
PROVISION SYSTEM IN DONETSK AND LUHANSK OBLASTS

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The report was produced within the UN Recovery and Peacebuilding Programme with the financial support of the European Union.

The views expressed herein are those of the authors and may not necessarily reflect the official position of the UN Recovery and Peacebuilding Programme and the European Union.

The United Nations Recovery and Peacebuilding Programme (UN RPP) is being implemented by four United Nations agencies: the United Nations Development Programme (UNDP), the UN Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Population Fund (UNFPA) and the Food and Agriculture Organization of the United Nations (FAO).

The Programme is supported by eleven international partners: the European Union, the European Investment Bank and the governments of Canada, Denmark, Japan, the Netherlands, Norway, Poland, Sweden, Switzerland and the UK.

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Introduction and summary of findings

This is the report of the findings of a research study aimed at assessing the accessibility of Ukraine's free legal aid system in the Donetsk and Luhansk oblasts in the east of the country. This study was commissioned by the United Nations Recovery & Peacebuilding Programme, with the collaboration of the Coordination Centre for Legal Aid Provision.

Ukraine has one of the most extensive systems of free primary and secondary legal aid provision in the world – one that goes beyond the strict requirements of international and European law. However, Donetsk and Luhansk oblasts have experienced more than five years of conflict and pose particular challenges to the provision of legal aid (among other services), not least because of the presence of large numbers of internally displaced persons. IDPs are automatically entitled to free legal assistance and face a unique set of legal problems. This research focused on the accessibility of legal aid provision to all those who require it, but looked also at the quality of the legal aid provided, by both staff and contracted private lawyer, as well as the adaptability of the system to meet new challenges.

The research was carried out by a team of researchers using a variety of methods. At the core of the research was a survey of legal aid employees on their experience, along with a survey of judges on their perception of the quality and accessibility of legal aid provision. Alongside this was a series of focus groups involving members of the general public, clients of the legal aid system, and people working for civic or non-governmental organizations. On top of this, more than 30 key informant interviews were conducted with legal aid staff from national to local levels, private lawyers, judges, and representatives of civil society. The outcome of the research can make no claims to being definitive, but it does offer a detailed and nuanced picture of legal aid in the two oblasts.

The overall picture is a positive one, with a broadly appreciative assessment of the quality of legal aid provided, from both clients and other professionals. However, the picture on accessibility is more mixed, with awareness of the right to legal aid – and of legal rights more broadly – rather less extensive than many working within the legal centres and bureaus seemed to believe. In part this can simply be attributed to the fact that the legal system is still very new, but there are also serious material obstacles to extending the outreach of legal aid, not least the lack of transport.

This report concludes with a set of 15 recommendations for the future development of legal aid in Donetsk and Luhansk oblasts, which are summarized here but discussed in more detail on page 44.

Capacity:

- New regional centres should be established for Donetsk and Luhansk oblasts.
- New legal aid centre should be established in Donetsk Oblast.
- A budget increase should be sought to fund a pay increase for staff members, bring salary rates in line with elsewhere in the public service.
- Personal development plans for each staff member.
- More face-to-face training.

Accessibility:

- Provide transport solutions for centres and bureaus in Luhansk and Donetsk oblasts.
- Run more mobile legal aid access points.
- Recruit and train a local paralegal network.
- Joint planning and cooperation with non-governmental organizations.
- Explore online options for primary and secondary legal aid.

Adaptability:

- There should be a positive policy of recruitment from particular vulnerable groups, such as the Roma community and people with disabilities.
- Gender mainstreaming in all legal aid activities should be further promoted.
- Eligibility for legal aid to be reviewed.
- Advocacy efforts with the aim
- Maintain a constant assessment and evaluation system.

01 Research project and methodology

1.1 Background to the situation in Donetsk and Luhansk oblasts

This project is formulated as part of the United Nations Recovery and Peacebuilding Programme, a multidonor framework programme implemented by four UN partner agencies, including UNDP, to develop the conflict affected oblasts of eastern Ukraine. This programme aims to respond to and mitigate the effects of the conflict and is aligned to government efforts to develop the two oblasts. The UN RPP involves three pillars for action: 1) restoration of infrastructure and economic recovery; 2) support to local governance and related capacity building; and 3) social resilience and peacebuilding. The programme's interventions are grouped under three components:



01 Economic recovery and restoration of critical infrastructure;



02 Local governance and decentralisation reform;



03 Community security and social cohesion.

The third of these components has the following specific objectives:

1. Improved regional and **local government capacity** in recovery planning and service delivery, that is gender-responsive, participatory and in line with decentralisation and local government reform agenda.
2. Enhanced **community security** for people in conflict-affected areas, with a focus on IDPs and host communities.
3. **Social cohesion** restored and strengthened between local authorities and communities, including IDPs.
4. Enhanced capacity of **gender equality** advocates and women affected by conflict to demand accountability and transparency on local decision-making and spending.

1.2 Overall research approach

The aim of this research is to provide an evaluation of the efficiency and accessibility of free legal assistance in the two target oblasts. It assesses the capacity, accessibility and adaptability of the free legal aid offices and centres. This report attempts to offer an assessment of free legal aid provision, in the context of the national legal and institutional framework and according to these criteria. It offers best practices in the legal aid field, drawn both from within the two oblasts and nationally, as well internationally. The report concludes with actionable recommendations for authorities, policy-makers, and external actors to support and develop free legal aid provision in Donetsk and Luhansk oblasts.

In particular, the research attempts to evaluate the accessibility of local legal aid provision for marginalized and vulnerable groups and the adaptability of the legal aid centres to a changing environment and demands of the local population. In particular, it will aim to address the following issues.

Capability:

- **To scan** the range of services provided by free of charge legal aid provision system in Donetsk and Luhansk oblasts.
- **To analyse** capacity of free legal aid centres staff, lawyers (legal defenders and representatives) who provide free of charge secondary legal aid on the basis of contracts with them in Donetsk and Luhansk oblasts to provide full and timely legal support to those in need, especially to men and women living in remote rural areas.
- **To identify** existing knowledge gaps and required skills that should be addressed by targeted training programmes.
- **To review** the models of cooperation between free of charge secondary legal aid centres and NGOs, paralegals and other state institutions.

Accessibility:

- **To assess** the availability and quality of e-services provided by free of charge legal aid provision system in Donetsk and Luhansk oblasts.
- **To review** the accessibility of free legal aid system to persons with disabilities in Donetsk and Luhansk oblasts.
- **To evaluate** the effectiveness of information campaigns and awareness raising activities on availability of free of charge legal aid in Donetsk and Luhansk oblasts.
- **To analyse** availability of access to and use of various electronic registries and databases by staff of free of charge secondary legal aid centres.

Adaptability:

- **To review** how free of charge legal aid provision system adapts to the legal needs of local population (both representatives of host communities and IDPs).
- **To assess** the ability of free of charge secondary legal aid centres and bureaus staff to react to changing demand from the users.

The research has been conducted using a multi-methods approach. This includes a survey of legal aid providers and some other key actors; focus group discussions involving the general public, previous users of the free legal aid system, and others; in-depth qualitative interviews with key informants, including legal aid officials, lawyers, judges, human rights organizations, and others; and legal research into national, regional and international standards.

In order to achieve this, UN RPP assembled a multi-disciplinary team of researchers.

The international consultant (lawyer, historian, socio-legal scholar) was responsible overall for the conduct of the research, elaboration of the research methodology based upon terms of reference from the UN RPP, development of the various research tools, analysis of findings, and drafting of the final report.

The national legal expert (lawyer) was responsible for a desk review of the national legal aid system and legal aid provision in Luhansk and Donetsk oblasts, participating in in-depth interviews and focus groups, and reviewing the findings of the survey and focus groups.

The national legal aid consultant (lawyer) was responsible for ensuring that the study will be in line with the National Legal Aid System's priorities, strategy, needs and implementation plans.

The sociological company, SPHERA, headed by a sociologist, was responsible for administering the survey, conducting focus groups, and performing statistical analysis.

1.2.1 Review of documentary sources

The national legal expert, national legal consultant and international consultant have conducted a thorough review of relevant documentary sources, beginning at the outset of the project. These include international, regional and national legal texts, reports, academic studies, evaluations, and various qualitative and quantitative data produced by relevant agencies.

1.2.2 Key informant interviews

Factual information was gathered through a series of key informant interviews. Key informants are defined as those who, by virtue of their professional situation or specific experience, have knowledge of the issues under investigation. The purpose of key informant interviews is primarily to generate factual information rather than "data" (in the sense of data that will then be subject to formal analytical procedures, whether qualitative or quantitative). However, these interviews were used to pilot the questionnaires to be used in the survey (see below), identifying questions that may be poorly worded or unnecessary, as well as questions that may be missing. The questionnaires were revised on the strength of the first round of key information interviews in which the international consultant was involved.

Key informant interviews were conducted by the international consultant in conjunction with the national legal expert in three locations: Kyiv, Kharkiv, and Kramatorsk in the week commencing 22 July 2019. These focused respectively on the national, regional and local legal aid centres and bureaus. Those interviewed included personnel from the legal aid centres at all levels, private lawyers (both contracted and not contracted to conduct legal aid representation), members of non-governmental organizations, and judges.

The national legal expert conducted subsequent interviews with the regional legal aid centre in Zaporizhzhia and with local legal aid staff of the non-governmental organisations, including in Luhansk Oblast.

1.2.3 Survey

The purpose of the survey was to assemble data on perceptions of the free legal aid provision on the part of three groups: representatives of regional legal aid centres; representatives of legal aid centres in Donetsk and Luhansk oblasts and local judges. According to the terms of reference, these consisted of 16 judges (eight each in Donetsk and Luhansk oblasts), 10 representatives of regional legal aid centres (five each in Kharkiv and Zaporizhzhia) and 60 representatives of local legal aid centres (again divided half and half between the two oblasts).

This is a perception survey based upon a purposive sample, and hence cannot in any statistical sense be an accurate representation of the views of the population as a whole. However, since the proportion of the population of interest to be surveyed is fairly large (among legal aid providers at least), its findings will still be of considerable value and should assist in identifying outstanding issues about the accessibility and quality of legal aid provision.

Questionnaires are to be found as an appendix to this report. The survey was administered by CAPI (Computer Assisted Personal Interviewing). Data analysis was conducted by SPHERA.

1.2.4 Focus groups

SPHERA conducted a series of focus group discussions in Donetsk and Luhansk oblasts, to help determine participants' experience and perception of the free legal aid scheme. Participant categories were: members of the general public; people with experience of being legal aid clients; members of NGOs and human rights groups. Six focus groups were from the latter category (three in each oblast) and eight from each of the first two categories (four in each oblast).

The procedure for recruitment and holding of focus group discussions was as follows:

- 1. Eight respondents were recruited for each focus group**, as well as two reserve respondents in case someone dropped out.
- 2. For each focus group with users of free legal aid** and with the general public there were four men and four women, representing different age categories.
- 3. UN RPP identified potential participants from NGOs.** These were not necessarily be balanced by sex or age. There were two focus groups in Kramatorsk and one focus group in Mariupol (Donetsk Oblast); two focus groups in Sievierodonetsk and one focus group in Starobilsk (Luhansk Oblast).
- 4. Eight focus groups for users of free legal aid were held in two cities:** one in Kramatorsk and one in Mariupol, as well as two in rural areas: one focus group in Manhush town and one focus group in Velyka Novosilka village (Donetsk Oblast); one focus group in Sievierodonetsk, one focus group in Starobilsk, and two focus groups in the rural area: in Stanytsia Luhanska and Milove (Luhansk Oblast). These locations, especially situated in rural area, are chosen because there are bureaus with free legal aid there.
- 5. Eight focus groups for general public were conducted in the same big cities:** Kramatorsk and Mariupol for Donetsk Oblast, Sievierodonetsk and Starobilsk for Luhansk Oblast (one focus group in each). At the same time 50% of focus groups, i.e. four focus groups, were held in other rural areas. These were Illinivka village and Vuhledar town for Donetsk Oblast, Nyzhnia Duvanka village and Popasna town for Luhansk Oblast (one focus group in each).

1.3 Limitations of the methodology

The legal aid system in Ukraine is a substantial organization and this research represents only a snapshot, even though it is focused on just two oblasts. The research was also conducted under some of the same constraints faced by both legal aid providers and the general population: focus groups had to be relocated away from places that were at risk from shelling.

Focus group discussions are a useful technique for in-depth qualitative research, but any conclusions to be drawn from such discussions are not statistically representative. A survey of legal aid staff is a useful tool, but two provisos must be added. First, participants in the survey were not randomly selected. Secondly, given the collaboration of the national Coordination Centre for Legal Aid Provision in this project it is possible that answers may have been influenced by that knowledge – in other words that responses may on occasions have been less critical than the respondents' actual opinions. There is, of course, no way to know this.

One of the key sets of actors in the legal aid system, private lawyers, was not included in either the focus groups or the survey. This is not of any great importance in relation to civil and administrative legal aid, but it does leave a substantial gap when it comes to considering criminal legal aid. We did, of course, receive quite a lot of comment on the quality of service provided by private lawyers, but there was little opportunity to hear their own views.

The in-depth interviews with key informants provided essential background for interpreting the findings of the focus groups and survey (as well as fine-tuning the research instruments). But again, as with the focus groups themselves, these were simply sources of useful information and opinions and not necessarily representative. We had access to the highest levels of the legal aid system, both nationally and regionally, which gave us a wealth of information. The time constraints of the project meant that we had only limited opportunities to cross-check this information at grassroots level. We were, however, able to fill some of the gaps from the other research methods, for example by interviewing two private lawyers (although, of course, we have no way of knowing how representative their views might be).

02 The right to legal aid in international law

The right to legal aid is enshrined at the highest levels of international human rights law. Article 14(3)(d) of the International Covenant on Civil and Political Rights states that in the determination of a criminal charge, a person has the right:

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 this 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;

Hard international law elaborates no further on these principles (although European treaty law and jurisprudence goes into much great detail, as will be discussed below). This brief text does, however, lay out the two central criteria that underpin the principle of legal aid in criminal cases: the **merit test** – “in any case where the interests of justice so require” – and the **means test** – “if he does not have sufficient means to pay for it.”

Recent years have seen increased emphasis on the importance of free legal representation in criminal proceedings, not only to ensure Article 14 ICCPR rights, but also to provide protection for the physical integrity of persons deprived of liberty. The UN Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, along with the Sub-Committee on Prevention of Torture, have emphasized the importance of prompt contact with a lawyer as a preventive measure against torture, an approach that has been championed at the regional level for many years by the European Committee for the Prevention of Torture (CPT). All this has been underpinned by academic research that demonstrates the impact of a lawyer’s presence in preventing torture.¹

Increasing attention has also been given to the specific issues confronting vulnerable groups within the justice system. In particular, the requirements of children coming into conflict with the law are distinct in a number of respects from those of adults.

In 2012, the General Assembly adopted the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems. In doing so, it noted that the principles and guidelines were designed to be applicable to “the diversity of criminal justice systems” and urged member states to “adopt and strengthen measures to ensure that effective legal aid is provided in accordance with the spirit of the Principles and Guidelines...” The introduction to the Principles and Guidelines explains the rationale for legal aid thus:

02. The right to legal aid in international law

A functioning legal aid system, as part of a functioning criminal justice system, may reduce the length of time suspects are held in police stations and detention centres, in addition to reducing the prison population, wrongful convictions, prison overcrowding and congestion in the courts, and reducing reoffending and revictimization. It may also protect and safeguard the rights of victims and witnesses in the criminal justice process. Legal aid can be utilized to contribute to the prevention of crime by increasing awareness of the law.

“Legal aid” is defined to

include legal advice, assistance and representation for persons detained, arrested or imprisoned, suspected or accused of, or charged with a criminal offence and for victims and witnesses in the criminal justice process that is provided at no cost for those without sufficient means or when the interests of justice so require.

This echoes the wording of Article 14(3)(d) of the ICCPR, and corresponds to what is described in the Ukrainian legal aid statute as **“secondary legal aid.”**

Furthermore, “legal aid” is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes.

This corresponds more closely to what Ukrainian law describes as **“primary legal aid.”**

The Principles section of the document underlines the importance of the independence of the legal representation provided. Although it is the responsibility of the State to provide legal aid, the actual content of the defence is to be determined by the lawyer according to professional criteria.

Legal aid should be available for all offences where a term of imprisonment (or the death penalty) may be imposed, as well as in other cases where “the interests of justice so require” – again the merit test. For children, legal aid should be available under the same or more generous conditions as for adults. Legal aid for children should be governed by the principle of the best interests of the child and be “accessible, age-appropriate, multi-disciplinary, effective and responsive to the specific legal and social needs of children.”² Legal aid should be available for those regarded as “vulnerable” and should be available without discrimination on grounds of “opinion, national or social origin or property, citizenship or domicile, birth, education or social status or other status.”³ There should be special measures to ensure “meaningful” legal aid for women, children, and groups with **“special needs,”** defined as including

the elderly, minorities, persons with disabilities, persons with mental illnesses, persons living with HIV and other serious contagious diseases, drug users, indigenous and aboriginal people, stateless persons, asylum seekers, foreign citizens, migrants and migrant workers, refugees and internally displaced persons. Such measures should address the special needs of those groups, including gender-sensitive and age-appropriate measures.⁴

The same obligation applies in relation to those who may be geographically remote or economically disadvantaged.

The responsibility of the state is to provide prompt legal aid at all stages of the criminal process and to ensure that, at the point of deprivation of liberty and prior to being questioned, persons are informed of their right to legal aid and other procedural safeguards, as well as the implications of waiving these rights. Information about the availability of legal aid should be disseminated to the general public.⁵

02. The right to legal aid in international law

States have an obligation to ensure the professional competence of legal aid providers, including the rights of women and children and other **“groups with special needs.”**⁶ Where appropriate, this can be achieved through the contribution of lawyers’ associations, universities, and civil society, as well as through public-private partnerships.⁷

The Guidelines adopted by the General Assembly provide more concrete detail on how the Principles might be realized in practice. Read in conjunction, they constitute the most progressive legal standards on the provision of legal aid, albeit that they are not binding law. In particular, the Principles and Guidelines:

- **Contain more generous criteria on eligibility for legal aid than is to be found,** for example, in the jurisprudence of the European Court of Human Rights.⁸
- **Recognize paralegals as legal aid providers,** as well as broad range of other actors.
- **Identify the importance of gender in legal aid provision.** Guideline 9 recommends the adoption of a “gender perspective into all policies, laws, procedures, programmes and practices relating to legal aid to ensure gender equality and equal and fair access to justice.” States should seek to ensure that, “where possible, female lawyers are available to represent female defendants, accused and victims.”⁹
- **Encourage states to provide legal aid to victims and witnesses.**¹⁰ The views of victims of witnesses should be considered at appropriate stages of the criminal justice process.¹¹
- **Emphasize the importance of informing the public about its right to legal aid,** as well as providing detailed guidance on how states can educate the public about their rights.¹²

Scholars increasingly view these standards as applying, *mutatis mutandis*, to the provision of legal aid in civil and administrative, as well as criminal, cases.¹³ While this view does not have a strong underpinning in positive international law, there is an accumulation of soft law standards, as well as an important Strasbourg court case. For example, the CEDAW Committee’s General Recommendation 33 on Access to Justice argues that

a crucial element in guaranteeing that justice systems are economically accessible to women is the provision of free or low-cost legal aid, advice and representation in judicial and quasi-judicial processes in all fields of law. [Emphasis added.]¹⁴

The CEDAW recommendation envisages both primary legal aid aimed at informing women of their rights, as well as secondary legal aid supporting women in realizing their rights in criminal, civil and administrative proceedings, as well as in alternative dispute resolution and in plural legal systems.

The UN Special Rapporteur on Extreme Poverty and Human Rights has also emphasized the importance of legal aid for the poor, in civil as well as criminal proceedings.

Legal aid is

particularly important for those living in poverty, who face a range of obstacles in negotiating bail procedures, pretrial detention, trials and sentencing, and appeals. Nonetheless, free legal aid should not only be provided in criminal matters, but also in civil matters when individuals do not have sufficient resources to pay for legal assistance and, without such assistance, they are prevented from asserting their rights.

02. The right to legal aid in international law

The Special Rapporteur noted that

[L]ack of legal aid for civil matters can seriously prejudice the rights and interests of persons living in poverty, for example when they are unable to contest tenancy disputes, eviction decisions, immigration or asylum proceedings, eligibility for social security benefits, abusive working conditions, discrimination in the workplace or child custody decisions. Indeed, exclusion of certain categories of claims from the scope of free legal aid, such as housing or immigration proceedings, or exclusion from representation before quasi-judicial tribunals, such as welfare or employment appeal boards, discriminates against the poor.¹⁵

See also the discussion in the next session on the jurisprudence of the European Court of Human Rights on the right to civil legal aid.

¹ Richard Carver and Lisa Handley, *Does Torture Prevention Work?* (Liverpool: LUP), 2016.

² United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, New York, 2013, Principle 11

³ Principle 6

⁴ Principle 10

⁵ Principle 8

⁶ Principle 13

⁷ Principle 14

⁸ See Principle 3

⁹ Guideline 9

¹⁰ Principles 4 and 5

¹¹ Guidelines 7 and 8

¹² Guideline 2

¹³ See, for example, Farzana Akter and Eva Brems, "The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems: A Comprehensive Approach to Legal Aid," *Bangladesh Journal of Law*, 16:1 (2016), 1-20.

¹⁴ CEDAW/C/GC/33, 15 July 2015.

¹⁵ United Nations General Assembly, Report by the Special Rapporteur on Extreme Poverty and Human Rights, 9 August 2012 (A/67/278).

03

The right to legal aid in European law

Under the Constitution of Ukraine, the European Convention for the Protection of Human Rights and Fundamental Freedoms is a part of domestic law and, in the event of a conflict, takes precedence over domestic statutes.¹⁶ The Law on Implementation of the Judgments and Applying of the Case Law of the European Court of Human Rights, adopted in 2006, not only addresses the execution of ECtHR judgments, but also establishes the case law of the Strasbourg Court as a source of law for the domestic courts.¹⁷

While the UN standards on legal aid are relatively recent and reflect, as noted, a growing concern with protecting the rights of persons deprived of their liberty, the jurisprudence of the ECtHR has for many years been addressing access to legal aid as an essential component of the right to a fair trial as set out in Article 6 of the European Convention:

to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; (6(3)(c))

It will be noted that the same two tests, for means and merit, are to be found in the European Convention as in the ICCPR.

3.1 Means test

The ECtHR has generally held that it is for domestic authorities to establish the monetary threshold for eligibility for legal aid.¹⁸ The burden of proving that a person cannot afford to pay for legal assistance lies with the defendant him or herself, but there is not an obligation to demonstrate indigence “beyond all doubt.”¹⁹ It is not necessarily incompatible with Article 6(3)(c) to require a person to repay legal aid costs, although this might be so if the amount reclaimed was excessive or the terms of the reimbursement were arbitrary or unreasonable.²⁰

3.2 Merits test

This test requires that “the interests of justice” must require that legal aid be provided. The ECtHR considers that there are three factors that should be taken into account in considering eligibility. These should be considered together, but one alone may be sufficient to determine eligibility:

- **The seriousness of the offence and the severity of the potential sentence:** even a short custodial sentence is sufficient to trigger eligibility for legal aid.²¹ A person may also be eligible if they face an unsustainable financial penalty.²²

- **The complexity of the case:** legal aid is likely to be appropriate in cases raising complex legal or factual issues.²³ Equally, legal aid may not be available in cases that are factually and legally straightforward.²⁴
- **The social and personal situation of the defendant:** people with particular vulnerabilities (such as educational or language impediments) are more likely to be entitled to legal aid. The Court assesses the interrelationship of the complexity of the case with the individual capacity of the defendant to address this.²⁵

3.3 Choice of lawyer

Article 6(3)(c) clearly states that an accused person shall have the right to “legal assistance of his own choosing.” In practice, the Strasbourg Court has taken the view that this may not be literally practicable in all circumstances. The courts may overrule an accused person’s choice, although they must “certainly have regard to the defendant’s wishes.”²⁶ National rules may also limit the choice of lawyers available to the accused.

3.4 Quality of lawyer

However, even though the conduct of defence is a matter between the accused and his or her lawyer, there is nevertheless an obligation on the State to ensure adequate quality of the legal aid provided, and not merely on the complaint of the accused.²⁷ For example, in one case where the domestic court assigned different lawyers to an applicant at each stage of a hearing, meaning that they were unprepared and unfamiliar with the case, the Strasbourg Court held that the authorities had failed to ensure an effective defence.²⁸ Other possible areas where there may be shortcomings in the quality of defence would be if the appointed lawyer failed to attend important events as the case proceeded (see below), if the appointed lawyer had conflicts of interest, as well as inadequate time for preparation.

3.5 Eligibility process

The Strasbourg Court has considered the rights of the applicant in having a claim for legal aid considered. The body charged with such a decision must act diligently. A decision on whether or not to grant legal aid must not be arbitrary. Examples of arbitrariness would be where the composition of the body was biased, where decisions could not be reviewed, or where criteria and decision-making were not transparent.²⁹ It is generally not acceptable for the body allocating legal aid to take account of the applicant’s prospects of success in determining whether to grant assistance.³⁰

3.6 When does legal aid begin?

The European Court, like the Human Rights Committee in its interpretation of the ICCPR and the UN Principles and Guidelines, has stressed the importance of legal aid being available right the way through the legal process, from a preliminary police investigation, through interview, detention, charge, trial, appeal and beyond. Particular emphasis has been laid on the prompt access to legal aid upon arrest (or the outset of an investigation). In the celebrated and influential case of *Salduz v Turkey*, a minor was arrested and made admissions in the absence of a lawyer that were later retracted. The Grand Chamber found that the applicant’s lack of access to a lawyer violated Article 6(1) and 6(3)(c).³¹

[I]n order for the right to a fair trial to remain sufficiently “practical and effective” ..., Article 6 § 1 [of the Convention] requires that, as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police, unless it is demonstrated in the light of the particular circumstances of each case that there are compelling reasons to restrict this right. Even where compelling reasons may exceptionally justify denial of access to a lawyer, such restriction – whatever its justification – must not unduly prejudice the rights of the accused under Article 6 ... The rights of the defence will in principle be irretrievably prejudiced when incriminating statements made during police interrogation without access to a lawyer are used for a conviction.³²

This right to a lawyer may also apply to persons who are not formally arrested or designated as suspects, but are rather witnesses or held in administrative detention. In the Ukrainian case of *Nechiporuk and Yonkalo*, the Strasbourg Court held that a person in administrative detention should have been granted legal aid since he was, substantively, a criminal suspect despite not being formally designated as such.³³ In *Brusco v France*, a person who taken into custody as a witness incriminated himself in the absence of a lawyer who could advise him of his right to remain silent. The Court held that he was not a mere witness but a “person charged with a criminal offence.”³⁴

Increasingly, the Court is also addressing the denial of Article 6(3) rights in conjunction with violations of Article 3, the prohibition of torture or inhuman or degrading treatment.³⁵

3.7 Civil legal aid

While the explicit wording of Article 6(3) refers to the right to defence in a criminal case, the Strasbourg Court was called upon, at a relatively early stage in its history, to determine whether there is a right to civil legal aid in protection of human rights. In *Airey v Ireland*, the applicant sought a judicial separation from her physically abusive husband, but could not do because she could not afford to hire a lawyer. The European Court determined that this breached her rights under Article 6 to seek a court’s protection of her civil rights and liberties. Remedies must be effective, not illusory. Many civil and political rights entail social and economic implications, with positive obligations attached. There was a right to legal assistance if it was necessary for effective access to the courts.³⁶ The Court has relied on its reasoning in *Airey* in a number of subsequent cases.

¹⁶Стаття Конституції 9, п. 1.

¹⁷Закон від 26.02.2006, № 3477 – IV.

¹⁸Справа «Сантамброджо проти Італії», ЄСПЛ, рішення від 21.09.2004.

¹⁹Справа «Пакеллі проти Федеративної Республіки Німеччини», ЄСПЛ, рішення від 25.04.1983,

²⁰Справа «Х. проти Федеративної Республіки Німеччини», №9365/81, Європейська комісія з прав людини, рішення від 06.05.1982; Справа «Круассан проти Федеративної Республіки Німеччини», ЄСПЛ, рішення від 25.09.1992; Справа «Орлов проти Російської Федерації», ЄСПЛ, рішення від 21.06.2011; Справа «Морріс проти Сполученого Королівства», ЄСПЛ, рішення від 26.02.2002.

²¹ *Benham v United Kingdom*, ECtHR, Judgment of 10 June 1996; *Quaranta v Switzerland*, ECtHR. Judgment of 24 May 1991; *Zdravka Stanev v Bulgaria*, ECtHR, Judgment of 6 November 2012; *Talat Tunç v Turkey*, ECtHR, Judgment of 27 March 2007; *Prezec v Croatia*, ECtHR, Judgment of 15 October 2009.

²² *Pham Hoang v France*, ECtHR, Judgment of 25 September 1992.

²³ *Ibid.* ; *Quaranta v Switzerland*, ECtHR. Judgment of 24 May 1991.

¹⁶ Constitution Article 9, para 1.

¹⁷ Law of 26 February 2006, No. 3477 – IV.

¹⁸ *Santambrogio v Italy*, ECtHR, Judgment of 21 September 2004

¹⁹ *Pakelli v Germany*, ECtHR, Judgment of 25 April 1983,

²⁰ *X. v Germany*, no. 9365/81, European Commission on Human Rights Decision of 6 May 1982; *Croissant v Germany*, ECtHR, Judgment of 25 September 1992; *Orlov v Russia*, ECtHR, Judgment of 21 June 2011; *Morris v the United Kingdom*, ECtHR, Judgment of 26 February 2002.

²⁴ *Barsom and Varli v Sweden*, ECtHR (dec.), Decision of 4 January 2008.

²⁵ *Quaranta v Switzerland*, ECtHR, Judgment of 24 May 1991.

04 The legal aid system in Ukraine

Article 59 of the Ukrainian Constitution gives every citizen the right to receive legal aid. In addition, Article 63 states that an accused person has a right to a defence, while Article 129 identifies the right to a defence as one of the main principles underlying legal proceedings. According to the Civil Procedural Code of Ukraine, litigants in civil cases have a right to free legal representation, while the Code of Administrative Proceedings of Ukraine similarly provides that persons with administrative cases before the courts have the right to free legal representation in the manner prescribed by law. In criminal cases, the Criminal Procedural Code of Ukraine (CPC) designates various categories of people as entitled to free legal representation:

- **on the rehabilitation of a deceased person;**
- **where the accused person is a minor;**
- **where the accused person has a physical or mental disability;**
- **where the accused person does not speak the language of the court;**
- **where the accused person has a mental illness;**
- **in cases relating to the rehabilitation of a deceased person;**
- **persons in respect of which a special pre-trial investigation or a special judicial proceeding is carried out;**
- **in the case of an agreement between the prosecutor and the suspect or accused of the recognition of guilt.**

However, although the Constitution dates from 1996, it was not until 2011 that Ukraine adopted the Law on Free Legal Aid. The Law (amended in 2012, 2014, 2015, 2016, 2017, and 2018) distinguishes between primary and secondary legal aid. Primary legal aid requires the government to provide citizens with legal advice and information about their rights, including the right to challenge actions or omissions of government authorities, as well as drafting of non-procedural documents. Secondary legal aid corresponds to the rights contained in Article 6(3)(c) of the European Convention and Article 14(3)(d) of the ICCPR – that is, the provision of defence and representation in judicial proceedings – as well as representation in other bodies, such as governmental institutions, and drafting procedural documents. Legal aid is provided on the basis of non-discrimination.

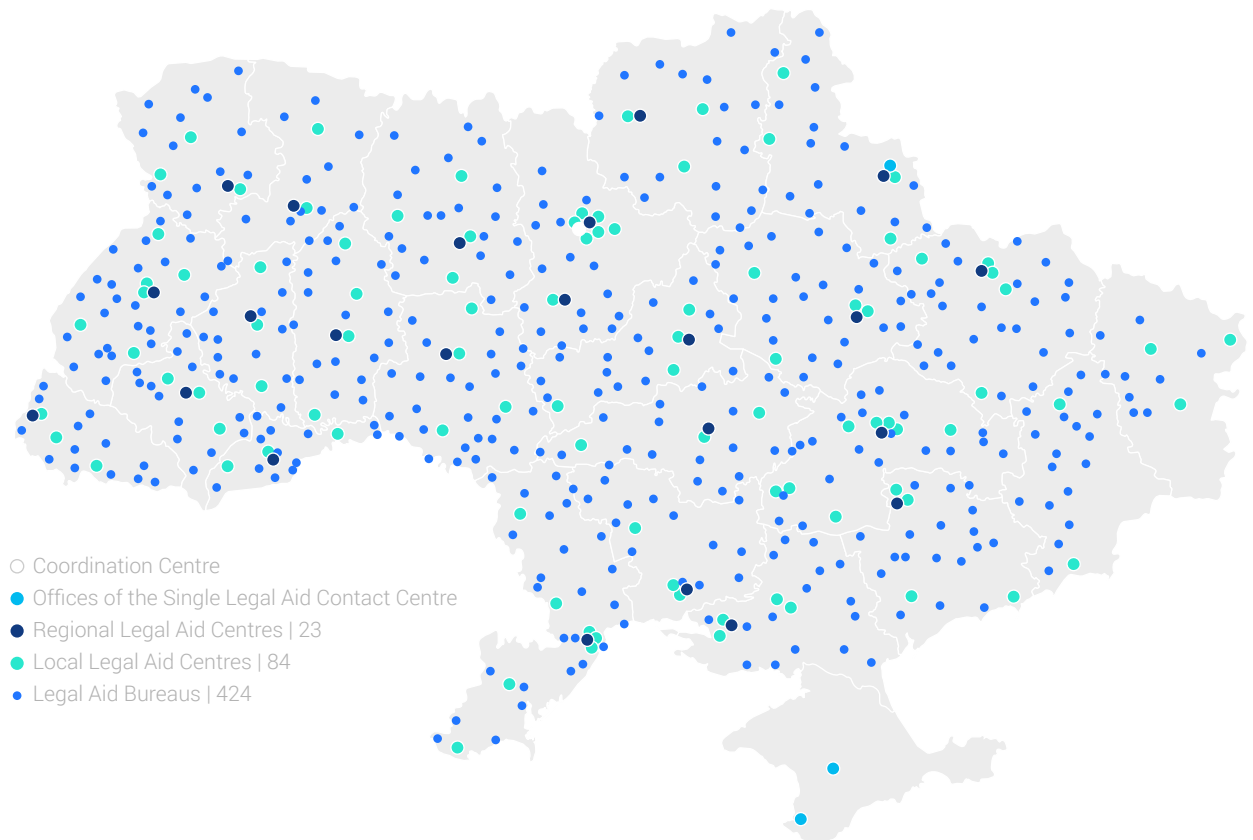
04. The legal aid system in Ukraine

All persons under the jurisdiction of Ukraine are entitled to primary legal aid. A number of specified categories are entitled to secondary legal aid, including those specified in the CPC and:

- **persons whose average monthly income is lower than two minimum subsistence levels as calculated in accordance with the Law of Ukraine “On the Minimum Subsistence Level”;**
- **children;**
- **internally displaced persons and persons who applied for such status;**
- **refugees, as well as stateless persons and foreign citizens detained for identification and deportation;**
- **victims of domestic and gender-based violence;**
- **war veterans, persons with special merits, those who have rendered special labour services to the country, and victims of Nazi persecution;**
- **persons who are the subject of mandatory psychiatric care or civil incapacitation proceedings;**
- **persons rehabilitated in accordance with Ukrainian legislation; and**
- **stateless persons and foreign citizens who are entitled to legal aid in accordance with Ukraine’s international agreements.**

It should be noted that the modern legal aid system of Ukraine is still very new and many of its elements have only very recently been put in place. The Coordination Centre for Legal Aid Provision was established in 2012, followed by the 27 regional legal aid centres in 2013, 100 local legal aid centres in 2015 and 432 legal aid bureaus in 2016. Currently, neither Donetsk nor Luhansk Oblast has its own regional centre, and fall under the centres in Zaporizhzhia and Kharkiv respectively. The regional centre for the Autonomous Republic of Crimea was disbanded due to the Russian annexation of the peninsula in 2014.

As of today, state-guaranteed legal aid is administrated through the Coordination Centre for Legal Aid Provision, and its regional and local offices – regional centres for free secondary legal aid provision and local centres for secondary legal aid provision respectively, as well as legal aid bureaus. The Coordination Centre for Legal Aid Provision executes the general governance in this sphere, overseeing and ensuring the strategic development of legal aid in Ukraine. The regional centres (23) are situated in the administrative centres of the oblasts, contracting criminal defence lawyers, ensuring secondary legal aid provision in criminal proceedings and coordinating the local centres in the given oblasts. The local centres (84) are situated in medium and big cities, contracting lawyers for civil and administrative cases, ensuring primary and secondary legal aid provision in the abovementioned branches of law and managing the legal aid bureaus. The legal aid bureaus (424) are situated in small and far-off localities, contracting lawyers for civil and administrative cases through a relevant local centre and ensuring primary and secondary legal aid provision in the abovementioned branches of law. Legal advice and information are also provided by phone through the Single Legal Aid Contact Centre.



Map 1 Legal aid centres and bureaus

Some 2500 people are employed by the legal aid system, of whom some 1600 are lawyers, mostly jurists who do not hold a bar certificate and are therefore, because of the Bar monopoly that is being gradually implemented since 2016, only able to represent clients on a limited range of legal issues. Otherwise, representation in court, including all criminal matters, is contracted to some 3200 lawyers. There are about 10-12 staff in each of the legal centres and 2-3 per bureau. The spread of private lawyers contracted to the legal aid system is dictated, in part, by the availability of lawyers. Numbers are inevitably lower in Donetsk and Luhansk oblasts, particularly in areas that are more remote from the rural centres. Allocation of cases takes place, in theory, on the basis of three criteria: geography (who is the nearest to the relevant court); workload (how many cases each lawyer already has); and specialization (the nature of the case and the particular skills of each lawyer). In practice, whether or not these criteria work in major centres such as Kyiv or Kharkiv, where there are many lawyers with a variety of specializations, they did appear to be particularly operative in Luhansk and Donetsk oblasts with their dearth of lawyers.

Quality control of the individual service provided is seen as important, whether advice or representation is provided by in-house jurists or contracted private lawyers. Quality control of private lawyers is maintained by review of case reports combined with unannounced observations of court hearings. In the event that serious problems are identified, a lawyer may be referred to the appropriate Bar Association body at a regional level for disciplinary action. For in-house staff, there preference is to intensify supervision and advice in order to improve the individual employee's ability to provide the required level of service. In 2019, the Commission on Expert Legal Analysis was created jointly with the National Bar Association of Ukraine and NGOs as a peer review body to maintain the quality of representation in criminal proceedings; a similar internal commission was also created for civil and administrative cases.

04. The legal aid system in Ukraine

The legal aid system attempts to remedy what is described as “70 years of total absence of legal information.” The problem of lack of awareness of legal rights and of the legal aid system itself is a serious one, as evidenced in our own focus group sessions with members of the general public (see below). The physical expansion of the legal aid system has addressed this to some extent; there are now multiple contact points through which the public has access to legal aid. Public materials, whether in the form of leaflets and posters, or online, play a role in increasing awareness. Partnerships with other organizations may be even more important – for example collaboration with an organization for deaf people.

When a person is taken into detention, either administratively or because of an arrest in a criminal case, the obligation lies with the police or detention centre staff to inform the relevant legal aid centre. (In addition, there are written materials available to inform detainees of their right to legal aid.) This process is monitored by a monthly reconciliation of detention records with notifications received. This is a system that appears to work with reasonable efficiency, although the Kharkiv regional centre informed us that in recent months there has been an increase in unnotified detentions. This applied mainly to the city of Kharkiv itself, which is outside the scope of this research, but we are concerned about how effectively the police may be monitored in Luhansk (under the authority of the Kharkiv regional centre) and Donetsk oblasts.

²⁶ *Croissant v Germany*, ECtHR, Judgment of 25 September 1992, at para. 29.

²⁷ *Kamasinski v Austria*, ECtHR, Judgment of 19 December 1989.

²⁸ *Sannino v Italy*, ECtHR, Judgment of 27 April 2006.

²⁹ *Santambrogio v Italy*, ECtHR, Judgment of 21 September 2004.

³⁰ *Aerts v Belgium*, ECtHR, Judgment of 30 July 1998.

³¹ *Salduz v Turkey*, ECtHR, Grand Chamber Judgment of 27 November 2008.

³² *Ibid.* at para 55.

³³ *Nechiporuk and Yonkalo v Ukraine*, ECtHR, Judgment of 21 April 2011.

³⁴ *Brusco v France*, ECtHR, Judgment of 14 October 2010.

³⁵ See, for example, *Mader v Croatia*, ECtHR, Judgment of 21 June 2011; *Pakshayev v Russia*, ECtHR, Judgment of 13 March 2014; *Turbylev v Russia*, ECtHR, Judgment of 6 October 2015; *Dvorski v Croatia*, ECtHR, Grand Chamber Judgment of 20 October 2015.

³⁶ *Airey v Ireland*, ECtHR, Judgment of 9 October 1979.

05 Issues and findings

5.1 Identifying key human rights issues in Donetsk and Luhansk oblasts

In the focus group discussions with members of the general public, as well as with members of the public who had already been clients of the legal aid system, facilitators asked participants to identify what they saw as the most important human rights issues. Not surprisingly, given that these discussions took place in Donetsk and Luhansk oblasts, often close to the Contact line, most issues identified were connected to the conflict and, in particular, the problems of moving from government-controlled to non-government-controlled territory. Pensioners who took part in the focus group discussions often said that their right to decent pensions and their payment in general was violated.

“As for delayed pensions. The very fact that people, individuals with disabilities and pensioners have to cross this border, although their residence is in the same territory, is a violation, I believe.” (Oksana, Kramatorsk)

This view was echoed by staff of civil society and non-governmental organizations who took part in focus group discussions:

“We have the well-known Pension Law. Then they adopt by-laws which contradict this law, so what kind of rights protection can we be talking about? Indeed, such by-laws are plenty. This is what we work with and come across most often. I think that this is quite a big problem we have.” (Maryna, Kramatorsk)

Internally displaced persons (IDPs) more generally complained about a lack of provision from the authorities, including accommodation and employment. Social assistance is often delayed or cancelled:

“Social payments, they all have accumulated. At 55, I ended up with nothing, I came here with documents and a bag, there were two dresses and a skirt in it. That is all I could pack under bombs. I came here and started from scratch.” (Natalia, Nyzhnia Duvanka)

IDPs say that their freedom of movement is violated on a regular basis:

“We have this right to move freely in Ukraine. At the moment, it does not really work because there are checkpoints. If you do not have a passport, you may as well fail to pass it.” (Hlib, Sievierodonetsk)

IDPs also mentioned that they are often required to carry a certificate of displacement in addition to a passport. Without this certificate, many opportunities turn out to be unavailable for them: they cannot open a bank account, or get a job or social assistance, and so on.

“I am an IDP. On holidays or simply on weekends, I often visit my parents in Luhansk, so at checkpoints they demand a passport, an IDP certificate and a foreign passport.” (Iana, Sievierodonetsk)

“Speaking of internally displaced persons, it is all very complicated. Are they entitled to pensions, are they obliged to cross this border every 60 days, [experience] all these hardships with these cards, have them reissued or replaced? They are Ukrainian nationals after all, aren't they? However, there are loads of special requirements to them and it is not always clear whether they are indeed justified, whether law says so or these are some local unspoken regulations. In my opinion, there are very many violations.” (Ievheniia, Popasna)

According to IDP respondents, complex paperwork is a big problem and a violation of their rights.

“Let us take applying for a foreign passport by an IDP as an example. In Kharkiv, you can easily have it issued in three days. Here, until you prove who you are and your identity is confirmed, you will need to pass through seven circles of hell to get it. And it is the same, for example, if you want a new passport ID. Until they verify your identity, run it through [the database] and establish it. You can defend some rights but it will cost you so much time, efforts, peace of mind and health.” (Maryna, Sievierodonetsk)

Most respondents who received free legal services generally echoed the key opinions summarised above: in their opinion, there is the lack of respect for rights in Ukraine. Similarly, they mentioned violations of the rights to free medical care, education, decent pay and so on. At the same time, a large share of free aid recipients and respondents respectively had problems applying for pensions and social benefits. Therefore, they spoke about violations of their rights more often than others and in greater detail because they were proceeding from their own experience and needs.

Among the respondents, there is a group of people who live part-time in the areas outside government control who have difficulty receiving pensions and social benefits because of the procedure introduced by the Pension Fund. The respondents mentioned the Arkan system used by the Pension Fund of Ukraine to monitor citizens crossing the Contact line in Donetsk and Luhansk oblasts. According to the law, if a person has spent over 60 days in a non-government-controlled area, he or she is no longer entitled to pensions or other social benefits. The respondents consider this practice and erroneous logging of periods between their exits and entries to be in violation of their rights.

“They stopped paying me pensions as of June last year. They kept me hanging in the air for half a year, and it was absolutely unlawful. They were referring to so-called Arkan. My wife and I went there, to the other side. We have a house there, so we need to go and check on everything. So, we went there but could not return the same day because of shelling. We came back the next day. They logged my wife's return but omitted me. So, the Pension Fund used it as a ground to stop payments in June. For six months – I even reported this in writing – they have not even given me an answer which I could use to turn to this organisation [the legal aid system]. Nothing can be done in the absence of an answer from the Pension Fund.” (Volodymyr, Manhush)

It is precisely because of delayed or cancelled pensions that the respondents needed to defend their rights in court. Some of them said that it is now even more difficult to do this even with legal assistance.

“Many pensioners face this problem: if they fail to get registered in time, it is a problem of internally displaced persons, and their outstanding pensions accumulate for a year or two. It was not possible for them to leave the uncontrolled area. Now even courts cannot help you get your pensions. A year or two ago, they would be paid somehow, but not now.” (Viacheslav, Velyka Novosilka)

NGO participants echoed the complaints of the other groups. They also mentioned a number of limitations which violate the rights of citizens, in particular the 60-day rule for pensions, which we have mentioned above, difficult paperwork and crossing of checkpoints.

“For internally displaced persons and those residing in uncontrolled territories to exercise their rights, they need to collect an additional package of documents, which is not required from citizens permanently residing in Ukraine. That is, internally displaced persons are restricted in receiving pensions, they cannot travel abroad freely for over 60 days. It turns out that if they are absent for longer, they can say goodbye to their pensions. Even to apply for a passport, they are required to undergo additional procedures which are not applicable to all other citizens.” (Serhii, Mariupol)

In addition, participants mentioned that internally displaced persons could not fully participate in the life of their new community because they cannot vote for people’s deputies running in constituencies in which they live, only for parties.

“The suffrage of internally displaced persons continues to be infringed upon. I understand that Ukraine was not ready for war and not all laws in our country match the reality. However, the response could have been faster over five years.” (Olena, Kramatorsk)

During the discussions, they also mentioned violations of the right to local self-government, mostly with regard to residents of Donetsk and Luhansk oblasts where there are military-civil administrations. In the opinion of civil society representatives, these administrations were to operate after the end of hostilities in government-controlled territories for a limited period of time only, however they are still there even after the situation has stabilised.

“I would like to talk about violations of the rights of certain territories. Let us not forget that the territory of two oblasts as of now is deprived of the constitutional right to exercise local self-government at the regional level. That is, the two oblasts (Donetsk and Luhansk) have no regional councils which are endowed with the widest range of powers. And, unfortunately, no comprehensible alternative has been offered over five years. Because the mechanism of military-civil administrations is a different story.” (Andrii, Kramatorsk)

This description of the nature of the legal issues facing the general public in Donetsk and Luhansk oblasts is clearly not exhaustive. We would have to add, for example, the particular problems faced by certain vulnerable groups such as people with disabilities or Roma, not to mention those, both adult and children, confronted by the criminal justice system. However, it is an important background to the discussion that follows because it corresponds closely to the account given us by legal aid personnel of the main issues that they address. A very substantial part of their work is taken up with the legal obstacles facing internally displaced persons, usually relating to routine administrative matters such as pensions and civil registration.

5.2 Obstacles to legal redress

Most respondents from the general public focus groups saw two main reasons why their rights were violated. First, they had low awareness of their legal rights:

“The thing is we have little information and not everyone, especially the older generation, has access to the Internet. I believe that our insecurity stems from ignorance, shortage of information. We cannot get it extensively, we have to pay everywhere: if you go to a lawyer, you have to pay, if you go to a solicitor, you have to pay. Had we been socially protected –

in what sense? – so that we could have at least something for free, so that the state could pay for us, so that we could have solicitors and lawyers who could give us information. In the meantime, everything is for money and inaccessible for the majority of the population because some cannot use the Internet.” (Hennadii, Vuhledar)

Low legal literacy and awareness were also mentioned by those participants who had already been clients of the free legal aid system.

“Generally speaking, a person should probably know that there is a law which protects his rights. However, it seems to me that many do not even know that there is some relevant law they can use to defend their right.” (Serhii, Kramatorsk)

Older respondents and rural residents tend to think that they cannot defend themselves on their own. Overall, this opinion was shared by the overwhelming majority of urban respondents. They said that this was due to the lack of specific legal knowledge in addition to low awareness and the lack of trust in law enforcement.

“Even if the Internet is available, I will go online and, even if I see these forms, it will be difficult to get the idea how to approach them and where to start because, first, sometimes a dispute is in one area while the court is somewhere else. And you need to keep this correspondence, making sure that all these letters are written competently, and you need to be sure that they get there. Let me put it this way, legal entities get more diligent answers. Private individuals often simply get waved aside.” (Oksana, Milove)

Because of this and their experience with legal aid institutions, respondents from this category of focus groups said a little more often that it was possible to defend one’s rights (albeit not on their own) and there were all the tools available for this.

“This is free legal aid. There is a bailiff service which must enforce court rulings, after all, there is a court, there is a prosecutor’s office. These are the agencies where we can seek help on our own... This way we help ourselves...” (Hanna, Kramatorsk)

NGO participants agreed that there was a serious problem of lack of legal awareness. They mentioned citizens’ poor awareness of their rights and laws, as well as generally low legal culture. Representatives of NGOs specifically mentioned poor awareness among rural residents.

“When it comes to small rural locations, the situation with the awareness of the population that they have such rights, that there are laws which can theoretically try and protect some of the above-mentioned rights is all very difficult. That is, the population is illiterate.” (Maryna, Kramatorsk)

This finding from the focus groups was echoed in the survey of employees of the local free legal aid centres and bureaus in Donetsk and Luhansk oblasts, 60% of whom saw problems with the level of legal awareness among the population (see Figure 1).³⁷



Figure 1: Level of legal awareness of the population is sufficient

In interviews with legal aid staff, many were more inclined to emphasize the extent and quality of the efforts made fill these gaps in public knowledge, yet it was also tacitly acknowledged that much remained to be done. The creation of the legal aid bureaus has created many more contact points between the system and the general public, but many people still live a distance from the bureaus. Lack of transport, which will be discussed below, is only the greatest of a number of obstacles to direct communication between legal aid staff and the public.

The second obstacle to realizing legal rights, which is closely connected to the awareness issue, is that it is expensive and difficult for people to defend their rights in court:

“I believe that if a person has resources and can afford a lawyer, the latter will sort everything out. But we have scarce resources to afford those 10 courts. My friends had to experience this. Therefore, those who have money will win their rights back.” (Liudmyla, Vuhledar)

Of course, this is precisely the rationale behind the legal aid system.

However, based on the findings of our in-depth interviews, it is apparent that in Donetsk and Luhansk oblasts these are not the only obstacles. The court system in these two oblasts does not function well. There are few judges and there are consequently significant delays in even simple legal procedures. There is also a serious shortage of private lawyers, which leads to little choice in selection of counsel for criminal cases. The general breakdown in the system also means that private lawyers are in some instances overly dependent on legal aid income. This does not, however, necessarily improve the quality of service, with lawyers often more interested in prolonging cases in order to maximize their income. Alongside all this, is a breakdown of some of the basic functions of government, making it difficult for citizens to complete normal administrative procedures. The relatively limited capacity of the legal aid system does not make up for these gaps.

5.3 Inequality before the law and lack of accountability

Most focus group participants from the general public mentioned a lack of confidence in court and the de facto existing inequality before the law. Therefore, even if they can financially afford to fight in court and are willing to do so, many respondents do not believe that the resulting decision would be fair. These views correlate with nationwide surveys that show extremely low (8 per cent) confidence in the country's judiciary.

“I have seen it on so many occasions, and they show it on TV, that once a common man slips, he gets jailed immediately, in just a day. If it is an MP, he falls ill immediately. As a result, time passes, a month or two, and, voila, he is no longer guilty! And it is everywhere like this.” (Maksym, Nyzhnia Duvanka)

Some respondents also complained about the ineffective work of law-enforcement agencies and their low interest in fulfilling their direct responsibilities, which they sometimes bluntly violate.

Focus group participants who were free legal aid clients reached similar conclusions. They identified the main reasons for the lack of respect for various rights in the country as corruption, nepotism, court underperformance and general non-compliance with the law in various areas of public life.

“They just do not obey the laws nowadays. Earlier, when we still had an ideology, little attention was paid to them too. People were afraid, there was at least some notion of conscience. That was such a period. They were obedient then and now they do not care about the law at all.” (Viacheslav, Sievierodonetsk)

This view was echoed by NGO representatives and public activists in their focus group discussions. They considered that the main reason for violation of various rights of citizens by government institutions and individual officials to be lack of accountability. What is more, during all focus group discussions with representatives of civil society and lawyers providing free legal aid, participants gave examples when officials did not even comply with court rulings in favour of affected citizens and bore no legal consequences afterwards.

“There is simply no such thing as accountability. There is criminal punishment for non-compliance, but, for some reason, there has been no decision on bringing officials to account, none. We report it to the police, and the police reject it over no *corpus delicti*.” (Serhii, Sievierodonetsk)

5.4 Awareness of legal aid

The majority of respondents out of the general population have never heard about free legal aid or have a patchy idea of it. A small number of respondents, in particular in cities, said that they had seen or heard it being advertised on TV and radio.

“The radio in my summer house is always on. It said that you can receive legal aid for free at such and such address.” (Nina, Sievierodonetsk)

Asked about sources through which it would be convenient for them to receive information about free legal aid opportunities, they named local television, radio, billboards, social networks, advertising in transport, distribution of leaflets and business cards, and mailing of booklets. According to the respondents, for small towns and villages, an information campaign involving local newspapers, outdoor advertising and thematic kiosks on weekends and special events in squares or village clubs would be sufficient.

In addition, many respondents from different localities agreed that for small towns and villages the best advertisement for free legal aid would be recommendation from friends and acquaintances.

“In a village if one goes there and gets good, professional help in solving some problems, this will be enough. Because one will share with another, that is how it works in a village. I do not know if it is the same in a city. After all, we communicate with each other one way or another. When there are as many positive results as possible, I think that advertising will no longer be required, people will just go there.” (Oksana, Illinivka)

In the case of free legal aid recipients, it is impossible to single out one or several sources from which they learnt about this opportunity. In the course of discussions in various focus groups different respondents named a number of sources and circumstances in which they found out about free legal aid, which can be divided into several groups.

The first one includes citizens who learnt about free legal aid from employees of various social services, the Pension Fund, government agencies and even police. The respondents were advised to seek legal assistance in their cases and were provided with contacts or advised where to find them. A small number of them read about free legal aid on information stands in the offices of social services. However, the number of respondents who found this information on their own is small.

“After my granddaughter left for Russia, it was necessary to cancel her registration because she had lived with me. She sent me a power of attorney, I went to the passport office, they told me I should do this through court. I needed to find a lawyer. I went to a lawyer and was told [it would cost] 3,000. My pension is 1,500... A girl in the passport

office told me: «I will give you a phone number, call them.» I called them the same day, we made an arrangement and I came.” (Nadiya, Mariupol)

Another big group is made of those who were advised to seek free legal aid by friends or acquaintances. The latter were not necessarily free legal recipients and only heard about this opportunity.

“I found out about this free help by chance. Imagine being deprived of pension in September, when the heating season is just beginning. I was hoping for something... And here, suddenly, my income is just gone... Speak of hiring a lawyer? With what money? It all costs money. While I wrote letters, complaints and they sent me answers, some time passed. And then purely by chance my relative was passing a checkpoint and threw me a business card: «Here, maybe this can help.» So that is how I got there.” (Anatolii, Kramatorsk)

The third group consisted of respondents who learned about free legal aid from various mass media, as well as those who saw it being advertised in the streets or in transport.

A separate distinctive group includes citizens who reside permanently or temporarily in an uncontrolled territory or frequently cross the Contact line via checkpoints.

“I found out at a checkpoint. I was sitting there, being unable to cross the checkpoint. It was very hot a year ago. A representative of a human rights organization sat down near me. People approached him and he answered various questions. And then I told him about my pension. And he gave me the contacts.” (Svitlana, Stanytsia Luhanska)

Given that a substantial proportion of legal aid clients are IDPs or people who pass across the Line of Contact on a regular basis, the provision of legal aid information at the checkpoints seems particularly important. One of our interviews was with a legal aid bureau employee engaged in this work in partnership with international NGOs. His presence at the checkpoint was planned to increase from two to five days a week.

Most respondents believe that citizens are little aware of the possibility of getting free legal aid, and that a comprehensive, long-term information campaign should be held in their locations. In particular, given their experience, the respondents often mentioned the need for easily visible information stands, materials, booklets in specialised agencies and public services, as well as the need to instruct their employees so that they could tell visitors about a chance to apply for free legal aid too.

“All public services, the Pension Fund and social security must have it on display everywhere to let people understand what kind of service this is.” (Valentyna, Mariupol)

In addition, the respondents mentioned the need not only to inform citizens about the option of free legal aid, but also to motivate them to seek it by promoting success stories of cases being resolved in favour of particular applicants with lawyers’ help. (There was, in fact, a television programme attempting to do precisely this.)

“The Supreme Court of Ukraine took the Bakhmut case, when a woman in Bakhmut won a case against the Pension Fund, as model, thus setting an example for the others. Such success cases should be advertised more. To promote free aid, these winning cases should be publicized and advertised.” (Borys, Kramatorsk)

“This is inspiring indeed. Because when we learnt that there had been success cases on the matter, it gave us confidence.” (Oksana, Milove)

One NGO worker interviewed told us that young people tended to be more aware of their rights and were more likely to be well informed about the availability of legal aid. This is because younger people use a greater variety of information sources, whereas the older generation are more likely to be confined to newspapers, television and word of mouth as sources. It is noteworthy that in the focus group discussions reported above, online sources of information were not mentioned as potential avenues, suggesting a low level of internet use among the population.

Legal aid centre employees, by contrast, were confident in public knowledge about the legal aid system, even though they had expressed less confidence in the people's general legal awareness, with 80 per cent agreeing that public knowledge of the availability of free legal aid was sufficient (see Figure 2). The reason for such a positive assessment is presumably that all legal aid staff said that their own institution was engaged in public awareness-raising.



Figure 2: Public knowledge of free legal aid system is sufficient

This assessment of the quality and impact of public outreach work seems rather complacent. As one civil society representative told us in an interview, “New laws are being passed the whole time – we need constant awareness-raising.” Even awareness of the existence of the legal aid system cannot be taken for granted. Certainly, many focus group participants who were randomly selected members of the public did not know of the availability of legal aid. Likewise, as will be discussed below, the capacity of the legal aid system to do outreach work through the oblasts is limited by material constraints such as lack of transport. This necessarily limits the profile of legal aid, with internationally-funded non-governmental providers often appearing to be better known.

One particular example may illustrate the nature of the problem. We interviewed a senior member of the Roma community in a town in Luhansk Oblast who had experience of working with legal aid. She was accompanied by her husband, the chairperson of the community, who had no familiarity at all with the legal aid system. To the extent that the community had any interactions with legal aid, this was only through the intermediary of a local civil society organization. Awareness of legal rights was very low among the community, with displaced Roma facing particular obstacles. There is only one lawyer in the Roma community in this town. This is clearly a situation that demands a particular, tailored response from the local legal aid centre or bureau. However, it is not clear whether there exists the capacity to do so, in particular to understand that the issue with a particular marginalized community such as the Roma is not only to distribute leaflets or posters but to engage more closely with the community. Many Roma are illiterate, so written awareness materials will be ineffective. Recruitment of Roma staff members would be a good start in this regard.

³⁷ The full results of the survey are set out in Appendix 1

5.5 Access to legal aid

The creation of legal aid centres – and in particular legal aid bureaus – has enormously reduced the distance between the legal aid system and the population – in a quite literal sense. Yet Ukraine is a large and substantially rural country, meaning that much of the population is still relatively remote from the existing points of contact with legal aid.

There are a number of dimensions to the issue of accessibility that were raised in our interviews and focus group discussions. These include: mobility and the capacity of legal aid staff to travel in order to provide advice; partnerships with NGOs; and online and other means of interaction between legal aid and public.

The first of these dimensions (and to some extent also the second) come down to an issue that arose repeatedly in our interviews: transport (or rather the lack of it).

Focus group members, unprompted, also raised this issue. Participants from villages and small towns mentioned this more often because, as they said, it was difficult for them to get to the available legal aid centres and because the elderly and people with disabilities also required such assistance.

“They should be provided with transport. Or if they have their own transport, they should at least be provided with fuel.” (Mariiana, Manhush)

Staff of the free legal aid system strongly agreed with the sentiment expressed in the focus groups – 72% said that their centre or bureau had inadequate transport to reach the population that they served (Figure 17). This is perhaps the most critical opinion of the status quo expressed by the staff respondents to the survey. It is also somewhat inconsistent with responses on the overall availability of resources, which was more evenly divided.



Figure 3: Your legal aid centre has access to adequate transport to reach population you serve

When asked about how adequate the representation of the legal aid system was in various areas (rural, urban and conflict-affected), the answers roughly corresponded with those relating to transport. A clear majority of legal aid employees surveyed felt that the system was insufficiently represented in the rural areas (Figure 18).

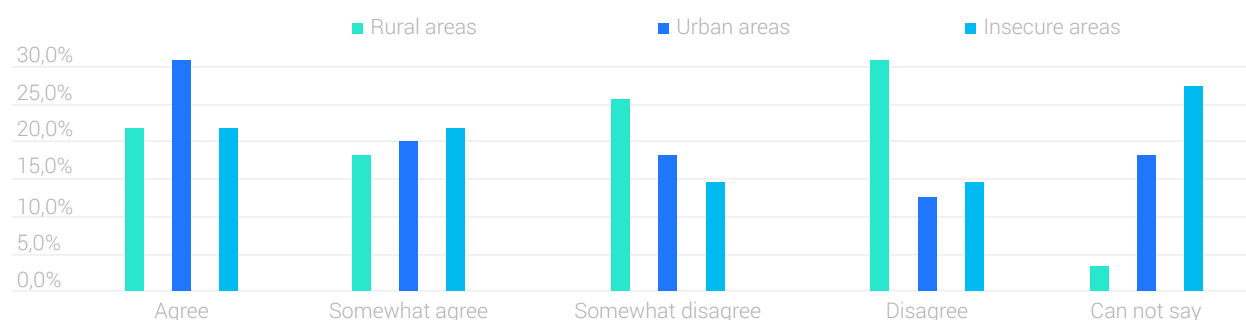


Figure 4: Legal aid system has sufficient number of providers in rural, urban and insecure areas

A plurality felt that representation in both urban and conflict-affected areas was adequate, but this leaves out of account the large percentages who felt unable to answer both these questions – 18 and 28 per cent respectively.

Information gathered in the in-depth interviews underlines these findings about physical accessibility. One representative of a civil society organization in Donetsk Oblast, who was generally extremely positive in her evaluation of the performance of the free legal aid system, pointed out that the local legal aid centre was responsible for a district spanning 100 kilometres. “People in remote villages have legal problems. Legal aid bureau and centre staff do travel to remote villages, but transport is an issue. This impedes them.” She proposed a schedule of mobile clinics on specific days.


The head of one legal aid bureau near the Contact line said that people in her town were well aware of the office and that the staff had good relations with the local community. However, the bureau was also responsible for outlying villages that had no knowledge of legal aid and do not know the staff. Legal aid employees rely on public buses to travel to the villages and cannot do so often enough. When they do, there is considerable interest from the population. Staff of other legal aid bureaus described a similar situation to us – sometimes hitching a ride from an NGO, or otherwise taking the bus.

One legal aid bureau employee that we interviewed was assigned to one of the checkpoints on the Contact line, doing very important work in advising people crossing the Line of how to realize their rights. Yet he is dependent on two international NGOs to provide him with transport from his own office to the checkpoint twice a week.

There was a striking contrast with some of the NGO representatives interviewed, who are carrying out an essentially similar function to free legal aid, but have foreign funding and access to vehicles. In at least one of our interviews, an NGO representative was highly critical of the absence of legal aid representatives in crucial locations, but seemed unaware of the advantages his own, foreign-funded organization enjoyed by contrast to a relatively poorly-financed state body.

Some of the accessibility issues raised are even more basic. One legal aid bureau described to us how it had no telephone landline. The only means of contact is staff members’ personal cell phone, meaning that they are, in effect, on call 24 hours a day, seven days a week. This is not satisfactory for workers in a stressful and demanding job, who require proper time off in order to be able to function properly.

A large number of the participants in the NGO focus groups mentioned the option of an online pre-consultation and the option of tracking the progress in their cases as possible ways to improve and expand access to free legal aid. This is especially true for residents of small towns, villages and those living in uncontrolled territories because this would significantly save their time and money.

 **“A website so that we could make an inquiry on the Internet. Have a consultation online instead of going somewhere. And go somewhere in case it is coming together.”** (Serhii, Milove)

Those participants who received free legal aid often mentioned the need for a hotline which they could use to ask some of their questions. (There is, as mentioned above, a hotline of which respondents were apparently unaware.) As is the case with online consultations, this is more relevant for residents of villages, small towns and uncontrolled territories, and older people in general who have problems using the Internet.

5.6 The experience of legal aid

Overall, most free legal aid recipients said that they were satisfied with the services they had been provided and would recommend them to friends, if need be.

In the course of discussions in focus groups, only a small proportion of randomly selected respondents from the general public answered that they had interacted with free legal aid. The vast majority, however, either did not need it or did not know that it was available.

Among the issues that they could seek free legal assistance on, the respondents most often mentioned problems with the payment and accounting of pensions and subsidies, violation of labour law, inheritance, disability registration, registration of individual entrepreneurship, etc.

The respondents in all survey locations often mentioned civil, administrative and property cases as the matters they would discuss with free legal aid. At the same time, most respondents said they were rather reluctant to rely on free legal aid in criminal cases or when large sums of money or property were at stake.

The biggest concern among the respondents at all points of the survey had to do with the fact that assistance was free of charge, which, in their opinion, made lawyers hardly interested in providing quality services.

“There are concerns about how good a service would be provided. Generally speaking, all good lawyers and solicitors work for money.” (Oleksandr, Sievierodonetsk)

Along with the low salaries of lawyers providing free legal aid, the respondents are afraid that there will be too many clients per employee. Therefore, lawyers cannot pay enough attention to all clients and do their work in the best possible way.

“There was no need, and if there were, there may have been doubts about the professional level of this assistance. Maybe I am wrong but it seems to me that if you pay a person money, he makes an appointment, dedicates more time and somehow looks deep into your problem. When a lawyer came to us, he gave free consultations. There is a queue of 80 people, a human factor, he is already tired and answers everyone mechanically. And you need to stand in this queue to get some possibly unskilled help, this is a waste of time. There is some distrust.” (Ivheniia, Popasna)

“I went to a free lawyer. She told me everything in such a perfunctory manner. She literally spent 10 minutes with me because there were other people already knocking on the door. When I left her office, there was a line outside. I was not particularly happy with this consultation. When I went to a paid lawyer, she wrote everything down for me on paper, told me which article applied where and all the rest. Why did that free lawyer, after all she has a university degree, not explain everything to me like another lawyer did, whom I paid 200 hryvnas per meeting?” (Liudmyla, Vuhledar)

Another negative aspect mentioned by randomly selected respondents who had experience with free legal aid was the need to collect the necessary documents on their own, while private lawyers did this for them. This not only meant extra work for the respondents but also delayed the resolution of their issue.

In general, the respondents appreciated the very possibility of obtaining free legal aid, which allowed them to spend no extra money. This is especially true of a chance to receive a free consultation since their income or life circumstances do not always allow them to request paid legal assistance.

“I would rather turn to a paid private lawyer. However, if there is simply no such opportunity, a desperate situation, I would check reviews about free [lawyers], where there is a more competent person who helped some people, and I would turn to him.” (Kateryna, Popasna)

The respondents most often agreed that in the absence of a solution to their problem with the help of free legal aid, they can always consult a private lawyer.

“I think, you can consult them on any issue, check whether this advice is effective or not. And then, if it did not work out, it did not go through, [you should] rake up some money somewhere for a paid lawyer if the situation is desperate.” (Iana, Sievierodonetsk)

The absolute majority of participants selected because they were free legal aid recipients were positive about their interaction with the legal aid system.

“I went to legal aid because my daughter gave birth to a grandson in Luhansk [non-government-controlled territory]. And I applied for a grandchild’s birth certificate to be issued here. All the paperwork for court was prepared promptly, and the court quickly considered the case. The court ruling has been delivered and I have already received the [birth] certificate.” (Tetiana, Stanytsia Luhanska)

“My mother died more than six months ago and I needed a death certificate. She died at my place in Luhansk [non-government-controlled territory]. A lawyer helped me to collect all the documents and explained everything in a very clear, comprehensible manner. I collected the documents. He told me where I should send them. Long story short, I have achieved everything I wanted.” (Olha, Stanytsia Luhanska)

The main reasons that prompted the respondents to seek legal assistance were problems with the payment or accounting of pensions, subsidies, violation of labour law, inheritance, various benefits (including military ones), payment of alimony, issuance of necessary documents and certificates, disability registration, etc. Thus, their experience echoes potential reasons for which randomly selected respondents suggested they could seek free legal assistance.

“My elder sister was denied a pension. I went through all the institutions up to the bailiffs. I filed a statement with the bailiffs, they accepted it, they said... However, it was a lost cause, so to say... And that is why, in fact, I turned to legal aid.” (Borys, Kramatorsk)

The most positive aspect of free legal aid, according to its recipients, is the fact that this service is free of charge. First of all, it allows those with insufficient income to discuss their rights with a skilled professional and only then make a decision on whether they should go to court. Most of the respondents thought that even with the help of the Internet they would not have been able to solve their problem by themselves.

“The positive thing is that people do not have to pay for a paid lawyer. Pensioners who have almost no pensions. And here it is free of charge. This alone is a big advantage.” (Viacheslav, Milove)

As a positive feature of free legal aid, some respondents mentioned its employees’ attentive approach and efforts to resolve their problem. This opinion was more often expressed during focus group discussions in villages and small towns.

“I like it that, first of all, they are proactive and involved. It is obvious that they care about the result of their help. And they motivate you to move on. Even if they do not know something, they start giving you addresses, phone contacts and so on. They are not only legal professionals, they also comfort you.” (Hanna, Kramatorsk)

At the same time, a small number of the recipients mentioned as a negative experience the low interest and involvement of legal aid lawyers, in particular those in private practice.

“When you visit the one who was assigned by a free legal aid centre - I was given such a coupon³⁸ and went to a lawyer. Yes, the lawyer prepared this lawsuit for me and practically everything for court. But I will say that he is not interested, he is a private lawyer. He wants people who come to him to pay in cash, and if you come with a free legal aid coupon, his attitude is completely different. An absolutely different attitude. So disparaging.” (Oleksii, Starobilsk)

Another negative point often mentioned by the respondents is an inconvenient mechanism of assistance: they had to go back to a legal aid centre, register a new inquiry and get a new coupon every time they had a follow-up question related to the initial inquiry.

“If there is one question, they work with one question. But there can be many more questions along the way. I understood that part but how should I act next here? I answered one question, now goodbye, go to your centre and get your coupon.” (Anatolii, Starobilsk)

The evaluation of various key informants that we interviewed about the quality of the legal aid service offered by the centres and bureaus was also generally positive. The opinion offered by colleagues in civic and non-governmental organizations rated the quality of the service provided very highly, with the exception of one NGO representative. Members of the legal profession were also positive, although with the qualification that legal aid employees are generally young and inexperienced, so that the quality of advice and representation offered, while professionally adequate, is not necessarily of the very highest standard.

5.7 Funding for legal aid

The last remark leads into an issue that we consider of high importance for the future of the legal aid system: how can free legal aid attract and retain lawyers and other staff of the highest quality?

As indicated in the previous section, almost all the focus group respondents expressed or agreed with an opinion that in order to improve the work of the free legal aid system, its lawyers should be paid higher salaries. In addition, it was often suggested that lawyers providing free legal aid should be encouraged to win cases and an additional bonus should be paid for each case won. [In fact, such a scheme does already exist.]

“It is necessary to support them morally and financially. I believe that a lawyer should receive a decent salary, even if he works for free. Well, at least not three pennies.” (Anatolii, Kramatorsk)

With low pay and high workloads, the next major improvement that needs to be made is to increase the number of lawyers. According to the respondents, this will prevent long queues during reception hours and ensure better legal assistance.

“Everything suited me but the only thing, it seems to me, is that perhaps there should have been more staff. There are two people working there. And everyone wants to get some help.” (Iryna, Kramatorsk)

“That is true because these people have a meagre salary. They pull such a load and get three pennies. Private attorneys drive a Mercedes, while these cannot have a piece of bread. Therefore, there should be 20 people working here instead of 10.” (Vadym, Mariupol)

The third improvement most often mentioned by the respondents was the upgrade or replacement of free legal aid offices, as well as logistics improvements, especially in villages and small towns. According to the respondents, the situation in big cities is better.

“They sit in some shabby, often inappropriate places, if you ask me, working on their laptops and old computers. They hardly get any money, as far as I know.” (Hanna, Kramatorsk)

When surveyed, the legal aid staff themselves were split almost equally over whether their own legal aid centre/bureau received sufficient funds (Figure 5). We did not ask them directly if their own salary should be higher, but a large number of respondents told our researchers off the record that they were not happy with the level of their own salaries.

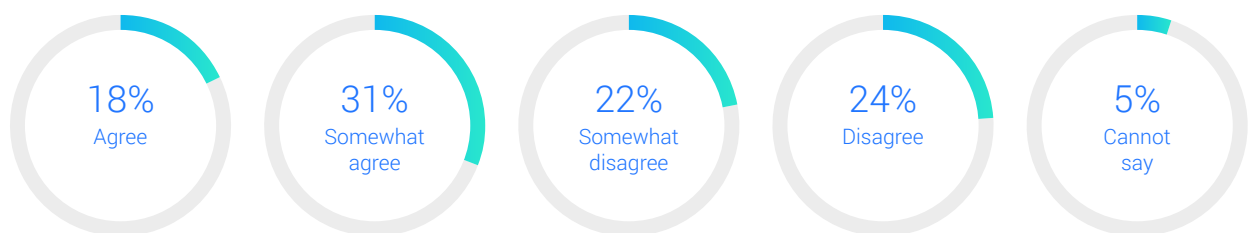


Figure 5: Your legal aid centre has sufficient financial resources to provide requested services

In in-depth interviews, we also received a mixed message. Junior staff seemed to expect the level of pay that they received – but equally saw this as a job that they would do only when young and single. Another consideration is that working in or near a conflict area does not look like a long-term career prospect, but rather something that might be done by someone in their 20s. (Of course, this also raises the question of whether work in a conflict zone should be more highly rewarded – as is certainly the case with NGO employees.)

Opinions about staffing also split: half of the interviewees said that the available staff was sufficient while the other half did not agree (Figure 6).

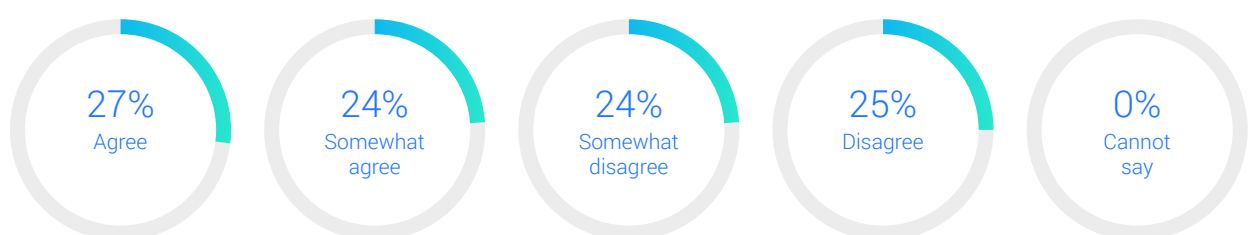


Figure 6: Your legal aid centre has enough staff to provide requested services

As with the estimates of the available funding for free legal aid centres, these data are somewhat at odds with the estimates collected during the focus group stage of the survey. Most focus group participants expressed the belief that the staff of legal aid centres should be increased.

Legal aid staff responding to the survey stated overwhelmingly that their own centre or bureau had sufficient in-house expertise to provide the required legal aid services (Figure 7).

³⁸ A colloquial term for a mandate to provide secondary legal aid provision that is bestowed upon a lawyer to provide such an aid in a particular legal problem.

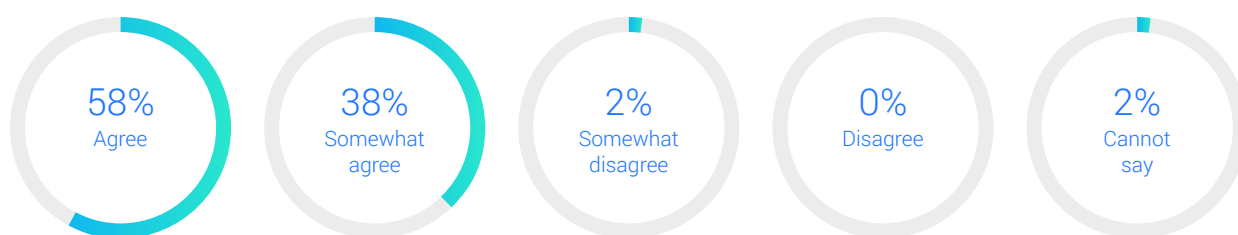


Figure 7: Your legal aid centre has sufficient in-house expertise to provide services

This is consistent with the strong opinions expressed on the level of professional training of legal aid staff (Figure 8) and the availability of opportunity for professional development (Figure 9). It is less consistent with the apparently high demands for training in various areas (see Figure 10 below).

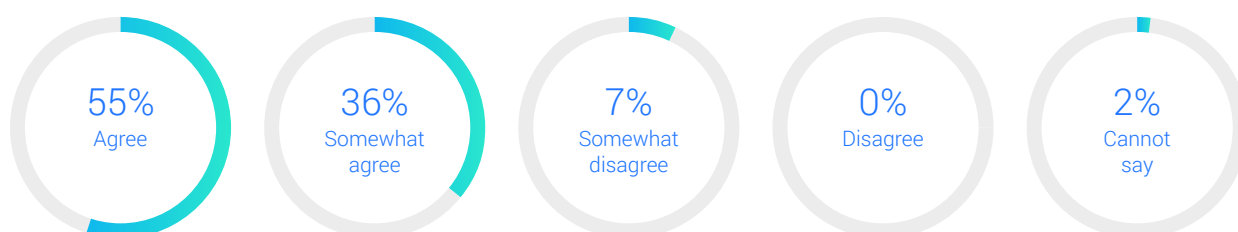


Figure 8: The level of professional training of free legal aid employees is adequate

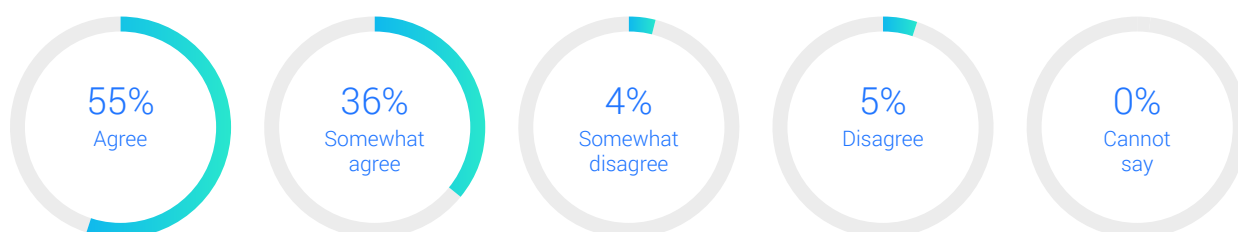


Figure 9: You have sufficient opportunities for professional growth and career development within legal aid system

We will return to the issue of staff training below.

Commenting informally, lawyers working in the free legal aid system acknowledged a rather high staff turnover, as well as the frequent employment of young graduates who yet require due experience or practice and who are not interested in remaining in the free legal aid system after they earn it. In addition, lawyers working in the free legal aid system said that it was difficult to find a skilled specialist in view of the salary offered, subsequent high workload and unpaid overtime work. These opinions seem somewhat inconsistent with some of the survey responses, suggesting that the latter may not always be reliable.

5.8 Staff retention

One recommendation related to staff turnover from the NGO focus groups was to intensify training courses, workshops for lawyers providing free legal aid, and hold such events as often as possible. Because those lawyers who have undergone training will not necessarily work in this system several months later.

“Staff turnover is very high. UNHCR possibly provides training to nearly all organisations represented here. And that is good but their personnel also change fast.” (Maryna, Kramatorsk)

Salaries for legal aid employees are lower than comparable positions elsewhere in the public service, making staff retention a problem. The staff members that we met certainly appeared dedicated and committed to provide the best legal aid service within their competence. The problem is that in many instances their competence needs to be expanded. The tendency inevitably is that staff recruited, especially in less attractive areas such as Donetsk and Luhansk oblasts, will be young and highly motivated, but also with far less experience. This is not a problem in itself, since youth and motivation are good qualities, but the inexperience can only be overcome with a combination of training and the passage of time. But if the legal aid system cannot retain staff because of low pay, that experience will never be accumulated and training will be partly wasted. The purpose of training is not, primarily, to enhance the career prospects of the trainee (although this will be important from the staff member's own perspective and may to some degree compensate for the lack of more tangible material rewards). However, if staff members move on to other jobs quickly, the full benefit of training is not enjoyed by the legal aid system, but by another employer – and the training process will have to start again with replacement staff.

NGO representatives in the focus group discussion identified low pay as a problem that significantly affects the motivation of lawyers and solicitors providing free legal aid.

“In some cases, the right to a fair trial is violated, there is pressure on court, and the right to defence is violated, that is, many people cannot afford to hire a good lawyer, and those lawyers who are provided by free legal aid lack qualification and quality because it is just financially free legal aid, and there is no motivation to defend.” (Serhii, Mariupol)

“The motivation of lawyers and solicitors in non-governmental organisations, who receive good pay for their work, is very high. Because their work is hard, their work is difficult. They often work on weekends, so to say. And when people come across the work of lawyers and attorneys at free secondary legal aid centres, they have questions. Many times, we have already arranged meetings and talked with free secondary legal aid representatives and management. They really have a very small salary, almost minimal.” (Iryna, Kramatorsk)

“What is the benefit of our and our colleagues' organisations? We provide services here and now. There is no such system as in free secondary legal aid, people come for a consultation, get consulted, listened to and provided with a lawyer's contacts. So, work starts after the lawyer deigns to call back. And there if they come, a lawyer gives an initial consultation and a solicitor gets involved immediately. In fact, we are doing this from day one. Perhaps this is what people like: efficiency and a clearly understanding of how to solve problems, and we immediately outline the entire algorithm of actions, up to enforcement.” (Oleh, Kramatorsk)

The respondents mentioned not only low salaries but also the familiar cases when payments to lawyers providing free legal aid had been delayed for months. In their opinion, it is necessary to develop a system of bonuses and, in general, ensure a base rate increase for lawyers and solicitors involved in free legal aid.

Particular attention should be paid to an increase in the pay rate and additional insurance for lawyers providing free legal aid in dangerous areas near the demarcation line or at the checkpoints with uncontrolled territory.

Like other respondents, NGO representatives noted the high workload of lawyers providing free legal aid, which also affected the quality of their work. These two factors cause high personnel turnover, creating the third problem that needs to be addressed: the understaffing of the free legal aid system, especially in settlements located far from regional centres. Therefore, an additional set of lawyers will help unload the already existing staff and will allow them to spend more time on each available case.

“The main problem is the lack of personnel. And the second problem is facilities and resources. Because you understand that the main secondary legal aid staff consists of lawyers and jurists. Given rather low pay, either pensioners or those who need a longer track record or students come to work there and then move on. Because 5,000 to 10,000 hryvnas is not a salary for a lawyer or a jurist. Therefore, the main problem is to review the wage scale.” (Oleksandra, Sievierodonetsk)

5.9 Staff training

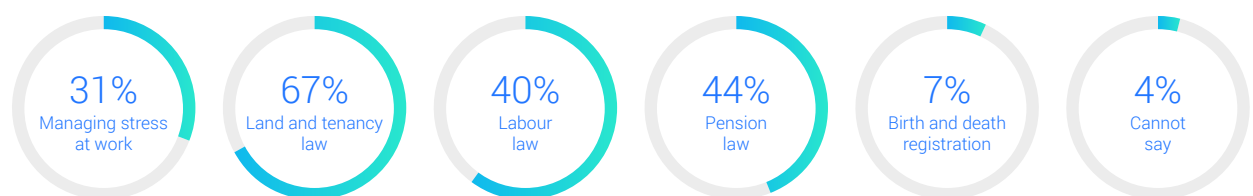


Figure 10: You would like additional training in (choose as many options as applicable)

Evidently continuing training is an essential part of any legal aid system. Professional legal bodies, including the Ukrainian Bar Association usually have a requirement for continuing professional education, for the very good reasons that law evolves, often rapidly, and legal skills and knowledge may become stale.

Legal aid employees that we interviewed in depth were positive about the quality of the training that they had already received but were hungry for more. In the survey we offered a choice of the main topics that had been raised with us in interviews, either with junior legal aid staff or with senior management. Percentages add up to more than 100 because respondents were able to select multiple topics. Land and tenancy law clearly emerges as the most important topic for further training. Birth and death registration, despite its importance in the work of legal aid bureaus and centres is not particularly in demand, presumably because it is straightforward and there is no need for staff to be updated. Pension and labour law are also approved. The issue of stress management does not emerge as a priority issue, but it should be seen as an important responsibility of management towards those working in stressful environments such as conflict zones.

The mode of delivery of training is also important. One bureau employee described receiving training over Skype with teachers from the law academy. However, she preferred attending workshops where she could exchange experiences with colleagues. In general, she felt that she received adequate support and did not feel isolated, despite being in a small bureau close to the line of contact. Although her responsibilities were limited to civil and administrative cases, she would also like training on criminal law in order to be able to offer advice, there being a chronic shortage of private lawyers.

We recognize the practical difficulties of holding workshops (see our previous discussion of transport issues), but the team-building aspects of colleagues gathering together for training are an important part of the exercise that cannot be replicated by online training, however sophisticated.

5.10 Private lawyers

A very important role in the legal aid system is played by private lawyers. As noted above, our interaction with private lawyers was limited in the course of this research. While we had a very comprehensive presentation of the workings of criminal legal aid from staff members of the Kharkiv regional centre, we had little opportunity to hear directly from the private lawyers who effectively operate that system.

It was apparent that there is a chronic shortage of private lawyers in Donetsk and Luhansk oblasts (by stark contrast with Kharkiv). One legal aid bureau employee told us that there was not a single lawyer in her district in Donetsk Oblast. Yet, at the same time, most free legal aid centre employees say that their institutions have access to a sufficient number of private lawyers. Private lawyers who have good qualifications and experience are assigned to specific cases by their specialization and are subject to monitoring and evaluation. This inconsistency is probably explained by the fact that legal aid employees in the local centres and bureaus are almost completely detached from the criminal aspect of the legal aid system. (The one exception would be where victims or witnesses are legally aided, in which case their interests would be handled by local legal aid centres.) All criminal defence work is the responsibility of the regional centres. The problem, in this instance, is that there are no regional centres in Donetsk or Luhansk oblasts, with responsibility being assigned to Zaporizhzhia and Kharkiv respectively.

NGO representatives who took part in our focus groups suggested that the logistics and management of the free legal aid system at the local level can be improved by establishing a separate office in every region. The current system may not always take into account local specifics and problems.

“It would be most convenient to have a manager in each area. Someone has to be in charge, and one should not necessarily go to Kharkiv for that.” (Denys, Sievierodonetsk)

This corresponds to our own findings.

The regional centre in Kharkiv described in detail the process of quality control, which includes not only review of the reports submitted by the contracted lawyer, but also unannounced observation of court hearings. However, we were told on several occasions that this was much more likely to happen in Kharkiv city than in Luhansk Oblast. A judge that we interviewed (albeit in Donetsk Oblast, not Luhansk) said that since 2015 she had not seen a single observation of a hearing in her court.

Legal aid employees who were surveyed felt that the private lawyers to whom they allocated cases were both sufficient in numbers (Figure 11) and had sufficient expertise (Figure 12).



Figure 11: Legal aid centre has access to sufficient number of private legal aid providers



Figure 12: Legal aid centre has access to private legal providers with sufficient expertise to carry out their work

These answers should probably be qualified by the observation, noted above, that legal aid staff in the centres and bureaus only deal with civil and administrative cases, whereas the greatest use of private lawyers is in criminal cases and responsibility for contracting lawyers in criminal cases lies not with the local centres and bureaus but with the regional centres.

We also surveyed judges in Donetsk and Luhansk oblasts, primarily asking them about their experience with private lawyers. Their conclusions were more critical than those of the legal aid personnel in the above tables. According to their accounts, judges often come across lawyers providing free legal aid in their work: about half of the judges say that more than 50% of their cases involve a lawyer providing free legal aid (Table 1).

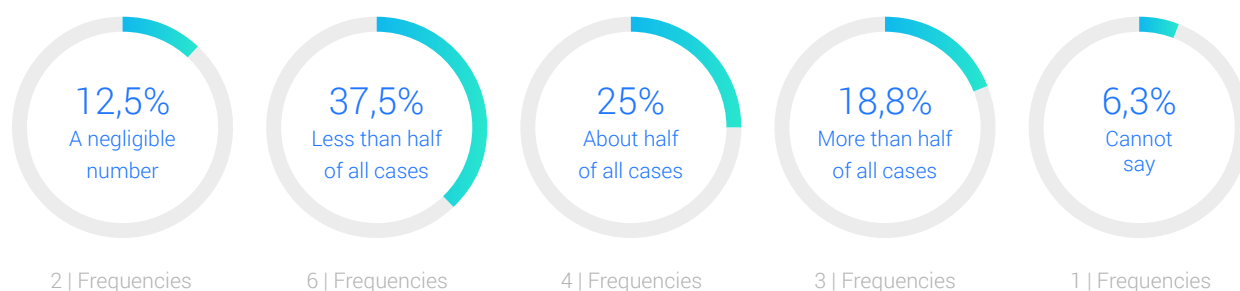


Table 1: Cases in your court involving lawyers from the free legal aid system (including private) 2016-18

Exactly half of the judges say that the quality of representation by free solicitors was not as high as that of paid solicitors (Figure 13).

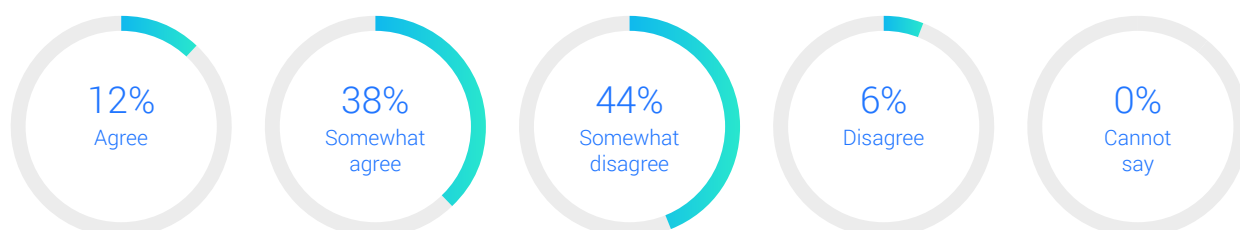


Figure 13: Quality of representation to persons who received legal aid was as good as those who paid for their own representation

In addition, most judges say that they are aware of cases when citizens refused from the services of free legal aid representatives. In the comments after the survey, the judges emphasize that

lawyers providing free legal aid sometimes do their job in an inadequate, unscrupulous manner. Like focus group participants, they associate it with, first and foremost, low pay. That is, lawyers spend little time on pro bono cases so that they can focus on private clients. According to the survey findings, this could be the case with up to half of private lawyers involved in free legal aid.

At the same time, judges rather disagreed with a statement that lawyers providing free legal aid lost cases more often than their paid colleagues, and that delays in providing free legal aid were a serious problem (Figures 14 and 15).

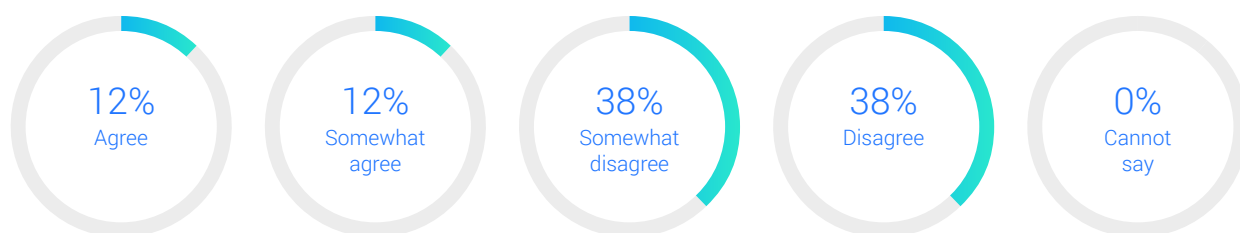


Figure 14: Delays caused by absence of free legal aid were a significant problem

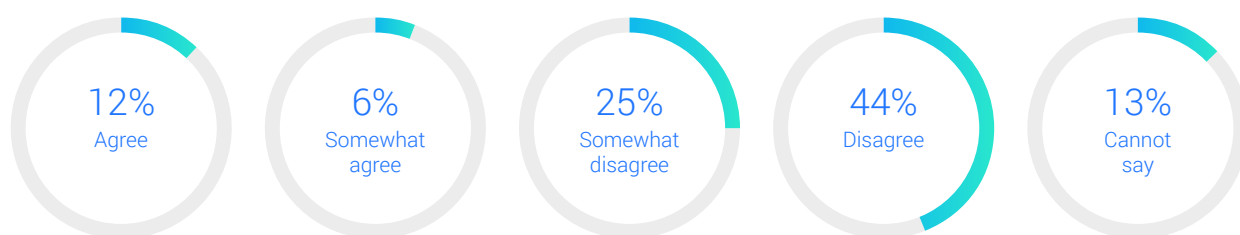


Figure 15: Your court issued rulings against free legal aid system lawyers in a disproportionately high number of cases

However, as with all the findings in this part of the survey, it should be borne in mind that these may reflect differences between courts in various parts of the two oblasts. A finding that four out of 16 judges regarded delays caused by the absence of legal aid as a problem is at least an issue demanding further exploration. Likewise, the fact that three out of the same 16 felt that they were more likely to rule against parties who were legally aided gives some cause for concern.

In addition, only a small number of judges said that they had had complaints from free legal aid recipients regarding the actions or inaction of free legal aid representatives, and no judges issued resolutions to the Regional Qualification and Disciplinary Commission regarding possible violations committed by legal aid representatives (Figure 16).

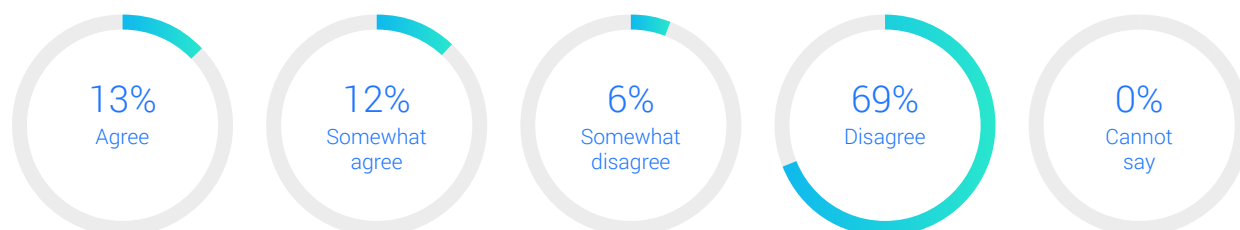


Figure 16: You have received complaints from the legally aided party regarding the action/inactivity of the free legal aid representative

A substantial majority of judges surveyed had experienced cases where a person receiving legal aid had refused their allocated lawyer (Figure 17).



Figure 17: You are aware of cases when the legally aided party refused lawyer from free legal aid system

A private lawyer in Donetsk Oblast, herself an IDP and not contracted to provide legal aid, was highly critical of the standard of service offered by the legal aid system. This view was echoed by the one judge that we interviewed, who was highly critical of private legal aid lawyers. She said that many private lawyers “come as a formality” and are not interested in providing “effective protection.” Often they try to delay outcomes, such as the issuing of an order, so that they can report more hearings and claim a higher fee. They do not act in the best interests of the client. The court reports this to the legal aid centre. She stressed that not all private lawyers behaved this way – but estimated that some 70 per cent do not adequately represent their clients. A particular problem is defence lawyers in criminal cases simply not attending. It is near impossible for legal aid clients to replace their legal representatives.

It is at the same time clear that many contracted private lawyers require additional training and that they are somewhat resistant to it. One highly experienced mid-career lawyer whom we interviewed described a patronizing attitude adopted by trainers who “treated us like first year law students.” On the other hand, many of the same dynamics are at work with contracted private lawyers as with the staff of legal aid centres and bureaus. Many of them are, as described to us by one senior official, “either very young or retired.” Clearly retired lawyers, who take on legal aid to supplement their retirement income, may not be very pleased to be required to attend training events – either because they regard it as patronizing or because it requires them to give up additional time.

In the course of focus group discussions, lawyers familiar with the inner workings of free legal aid often mentioned the need to review the current reporting system, which is cumbersome and time-consuming. Therefore, it must be substantially simplified.

“I was in the free secondary legal aid system. I cooperated with them on contract terms, their reporting system is crazy! I do not know what it is like now, but earlier a tiny mistake would ruin everything. They would reject your report and goodbye, you get nothing. You file a simplified report on the number of hours you worked, and you sit back waiting for a text from the bank. But they required you to write down everything in detail, where you have been, put it right, write clearly, and notify about the report. Eventually, it got rejected and returned to you. After all, when they called me back and asked: “Will you renew the contract?” I said: “No, thank you.” (Ievhen, Kramatorsk)

“Look, it is really good that you have raised the issue of reporting. It takes a day, well, not a day, half-day, or even more to write a report for your reward, to justify why you need to be paid a fee of 5,500 hryvnas.” (Andrii, Kramatorsk)

06

Conclusions and recommendations

Since recommendations are always implicitly critical – they refer to things that could be done better than at present – it is important first to underline the positive. In a few very short years the Ukrainian legal aid system has grown from nothing to an extensive network that reaches almost every corner of the country. It provides primary and secondary legal aid to an extraordinary proportion of the population – every Ukrainian is entitled to secondary legal aid in criminal cases, for example, and 37 per cent to secondary legal aid in civil and administrative cases. Countries such as the United Kingdom, with a very long-established secondary legal aid system, still struggle to meet the needs of the population, particularly with regards to representation in civil cases, and indeed are retrenching and reducing the eligible population. In this context, both national and international, the scale of Ukraine's achievement should be recognized.

The following recommendations are drawn from our research reported in the previous section, grouped under the overarching issues outlined in our terms of reference: capacity, accessibility and adaptability, although it is clear that some of these fall under more than one heading. It has been our aim to produce only a limited number of recommendations (15 in total) addressing what seemed the most important matters arising from our research, since it seemed that a few action points would be more likely to be realized.

6.1 Capacity

1. New regional centres should be established for Donetsk and Luhansk oblasts: the message being sent is a strange one. Why do the Ukrainian authorities not have regional centres in the two oblasts that are partially outside government control? While this seems symbolically the wrong message, the main reason for this recommendation is a practical one. Administration of criminal legal aid is too remote from the situation on the ground. Perhaps this will always be true to some extent, but the remoteness of the regional centres that are currently responsible only worsens the problem. Although this may involve considerable expense, it seems to us a priority.

2. New legal aid centre should be established in Donetsk Oblast: this could be situated in Kurakhove or Vuhledar and is necessary because of the relatively large number of legal aid bureaus and the increased supervisory and managerial responsibility resting on the existing centres.

3. A budget increase should be sought to fund a pay increase for staff members, bring salary rates in line with elsewhere in the public service: while this proposal will also involve a substantial financial outlay, the marginal cost should turn out to be minimal, if not negative. There is currently a real problem of staff retention, which is particularly marked in the conflict-affected areas. This means that money spent on training and staff development is actually leaking out of the organization and must be spent anew on newly recruited staff. High salaries would lead to

greater staff retention, meaning more effective impact from training and other staff development measures, as well as improved institutional memory at the local level.

4. Personal development plans for each staff member: even if staff salaries are raised, another important strategy of staff retention (and enhancing skills) is for each staff member to have a personal development plan. This would be reviewed annually, with the staff member and their supervisor identifying the necessary steps to enhance their skills and capacity. These might include attendance at training events of various types, but also other measures, such as staff rotation, either temporary or permanent.

5. More face-to-face training: there were a number of specific training needs identified in this report, of which land and tenancy law is the clearest. They also include pensions and labour law. Further issues would no doubt be identified with the adoption of personal development plans. In addition, consideration should be given for guidance in stress management, particularly for those working in conflict areas. Delivery of this training can be mixed, including online, but should include a substantial measure of face-to-face training in workshops, despite any practical obstacles, since this promotes exchanges and team-building between staff members from different centres and bureaus.

6.2 Accessibility

6. Provide transport solutions for centres and bureaus in Luhansk and Donetsk oblasts: this emerged repeatedly as the most important issue in the accessibility of legal aid. Staff members are dependent on public transport or the generosity of their non-governmental counterparts. While we advocate extended partnerships with NGOs (see below), this is really not adequate. Transport solutions do not need to be especially high tech. There is no need for every bureau to have a 4x4 with driver – one small motorcycle would transform the work of any of these offices.

7. Run more mobile legal aid access points: with transport in place, bureaus should run mobile legal aid access points, preferably at regular times, throughout their catchment area. Regular timing means that these can be advertised online and in leaflets or posters so that local people know when advice is accessible. The presence at checkpoints on the Contact line should be extended, which will be more easily achieved if more transport is available.

8. Recruit and train a local paralegal network: paralegals should be recruited from among the local population, both as an initial point of contact with the legal aid system and as a way of increasing awareness among the population.

9. Joint planning and cooperation with non-governmental organizations: there is already a degree of cooperation with NGOs working in Donetsk and Luhansk oblasts, many of which are internationally supported and have good resources. But it was apparent from our interviews that this was far from perfect and, to quite a large extent, also informal. We propose joint planning between the free legal aid system and NGOs to ensure synergy and cooperation, minimizing conflict and overlap and maximizing coverage. This would be more easily achieved if regional offices for Donetsk and Luhansk oblasts were in place.

10. Explore online options for primary and secondary legal aid: our focus group participants recommended that there should be online systems for registering and pursuing the initial stages of their case and receiving advice. It is unclear how far this may correspond to initiatives that are already underway, with the legal aid wiki and the online application mentioned under current strategic goals. It is also unclear what proportion of legal aid applicants in Donetsk and Luhansk oblasts would be able to apply online. We recommend further research on this.

6.3 Adaptability

11. There should be a positive policy of recruitment from particular vulnerable groups, such as the Roma community and people with disabilities: it is taken as given that the legal aid system should be mindful of the particular needs of vulnerable groups, including minorities. However, one of the most effective ways of achieving this is to ensure that such groups are actually represented among the staff of the legal aid system. For groups such as the Roma, this would facilitate communication and potentially have a significant effect in raising awareness. For people with disabilities, it would be a way of ensuring that the various specific obstacles to accessing legal aid would be more effectively identified and addressed (at the same time, it should be noted here that the free legal aid system employs people with disabilities as it is a standard requirement of labour law; however, this practice should be more widespread at the local level).

12. Gender mainstreaming: the legal aid system practises gender mainstreaming in its planning processes (the official gender strategy was developed with support of the Ukrainian-Canadian “Quality and Accessible Legal Aid” during 2018 and introduced at the beginning of 2019), but this was not clearly apparent to us in the interviews we conducted. The problem was not lack of sympathy so much as the tendency to see particular groups – such as single parents – as exceptional and requiring special accommodation. Planning – and staff training – needs to take better account of gender issues.

13. Eligibility for legal aid: several interviewees within the legal aid system raised the need for access to legal aid to be limited from the current categories. Other pointed out the apparent injustice of wealthy IDPs receiving free legal representation for conducting property transactions, purely by virtue of membership of the displaced category. However, in our survey, only 25 per cent of staff respondents favoured reducing eligibility and 40 per cent felt that eligibility should be expanded. We note that all legal aid systems can generate anomalous situations where people who receive legal aid when they do not apparently need it. But legal aid eligibility is about broad categories, not individual cases, and it may be that the cost in money and time of introducing a more rigorous determination system may be greater than any savings resulting. We propose a thorough cost-benefit analysis before any decision is made to limit eligibility compared to the status quo.

14. Aim to expand the scope of cases handled in-house: The Bar monopoly implemented in recent years has limited the scope of cases that can be handled by the in-house legal aid lawyers. We propose to draw the attention of the Government to the possibility of identifying certain exceptions to these rules, which will allow free legal aid lawyers to handle more cases, which will be particularly relevant for areas with a shortage of attorneys who have contracted with the secondary legal aid centers. In the long run, it may also be advisable to consider providing free of charge secondary legal aid by lawyers of the free legal aid system in criminal proceedings for the same reason.

15. Maintain a constant assessment and evaluation system: One of the things this study has revealed is the quite differing perceptions of the operations of the legal aid systems of the different constituencies that we have surveyed or interviewed: legal aid employees at national, regional, and local levels; outside collaborators such as judges and private lawyers; civil society and non-governmental organizations; and clients and the general public. We propose that there should be a continuous process of surveying the experience and perceptions of, at least, legal aid staff in the centres and bureaus, and clients who use the legal aid system. In both instances, it is important that such surveys be conducted anonymously and that this be done by a non-governmental body outside and independent of the legal aid system. This would be a way of monitoring both the quality of service given to the general public and the needs, capacity and perceptions of those working to provide legal aid.

Appendix 1:

Survey questionnaires

Questions to people working in legal aid centres/bureaus

(Unless otherwise indicated, all questions are to be answered on the scale agree, somewhat agree, somewhat disagree, disagree, cannot say)

- The level of legal awareness of the population is sufficient.
- Public knowledge of the free legal aid system is sufficient.
- Your legal aid centre/bureau participates in public outreach/awareness raising.
- Your legal aid centre/bureau has sufficient financial resources to provide services to those who request them.
- Your legal aid centre/bureau has enough staff to provide services to those who request them.
- The staff of your legal aid centre/bureau has sufficient in-house expertise to provide services
- Your legal aid centre has access to adequate transport to reach the population that you serve.
- The level of professional training of employees of the free legal aid provision system is currently adequate.
- You have sufficient opportunities for professional growth and career development within the legal aid system.
- You would like additional training in (choose as many as applicable):
 - a. Managing stress at work
 - b. Land and tenancy law
 - c. Labour law
 - d. Pension law
 - e. Birth and death registration
 - f. Other (please describe)
- Legal aid centre/bureau has access to a sufficient number of private legal providers.
- Legal aid centre/bureau has access to private legal providers with sufficient expertise to carry out their work.
- When private lawyers are used as legal aid providers, they are assigned based on their specialty.
- Private legal aid providers are monitored and evaluated.

- The current legislation regarding the free legal aid system needs improvement.
- There has been corruption in the free legal aid provision system.
- The range of people who are entitled to free secondary legal aid is currently adequate.
- The range of people who are entitled to free secondary legal aid should be expanded.
- The range of people who are entitled to free secondary legal aid should be reduced.
- The current system for collecting and analysing statistical information on legal aid is adequate.
- The legal aid system has sufficient number of providers in rural areas.
- The legal aid system has sufficient number of providers in urban areas.
- The legal aid system has sufficient number of providers in insecure areas.

Questions to judges

(Unless otherwise indicated all questions are to be answered on the scale agree, somewhat agree, somewhat disagree, disagree, cannot say)

- The cases in your court involving lawyers of the free legal aid system (including private lawyers funded by legal aid) in 2016-2018 were a) a negligible number; b) less than half of all cases; c) about half of all cases; d) more than half of all cases.
- The quality of representation to persons who received legal aid was as good as those who paid for their own representation.
- Delays caused by the absence of free legal aid were a significant problem.
- Your court issued rulings against free legal aid system lawyers (including legally aided private lawyers) in a disproportionately high number of cases.
- Your court issued rulings to the Regional Qualifications and Disciplinary Commission regarding the possible violations during the legal representation of interests by the free legal aid system lawyers in a disproportionately high number of cases.
- You have received complaints from the legally aided party regarding the actions / inactivity of the legal representatives of the free legal aid system.
- You are aware of cases when the legally aided party refuses his / her legal representative who is a lawyer of the free legal aid system?
- Certain provisions of the law should be amended in order to improve the provision of free of charge secondary legal aid.

Appendix 2: Survey data

Free legal aid centers survey

Figure 1: Level of legal awareness of the population is sufficient.

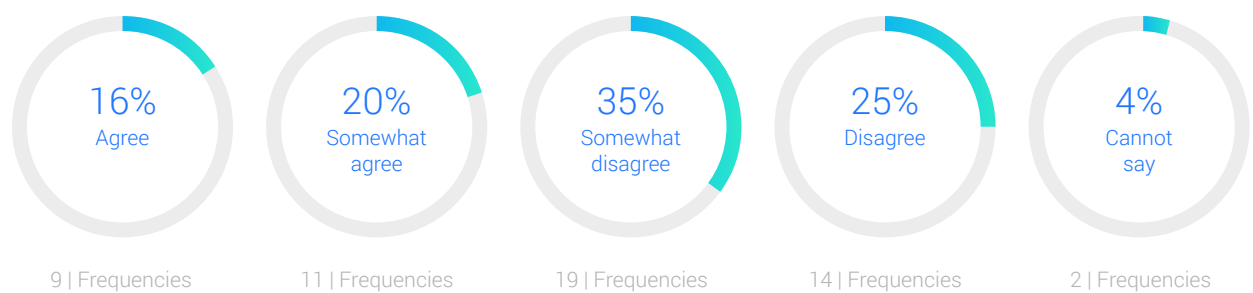


Figure 2: Public knowledge of the free legal aid system is sufficient.

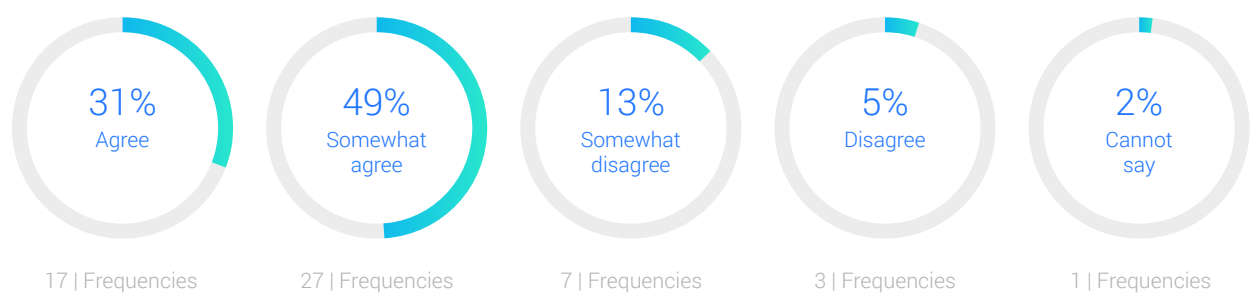


Figure 3: Your legal aid centre/bureau participates in public outreach/awareness raising.

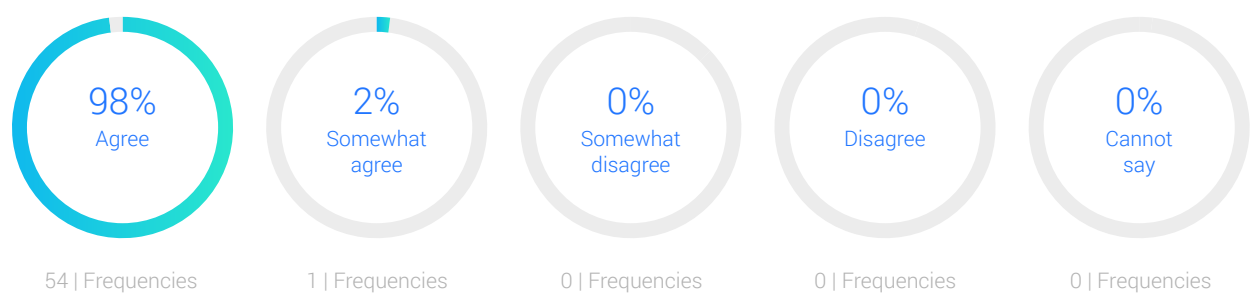


Figure 4: Your legal aid centre/bureau has sufficient financial resources to provide services to those who request them.

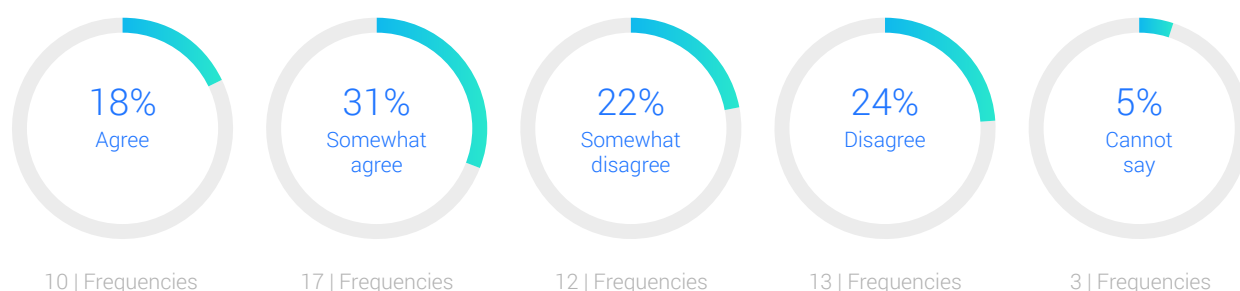


Figure 5: Your legal aid centre/bureau has enough staff to provide services to those who request them.

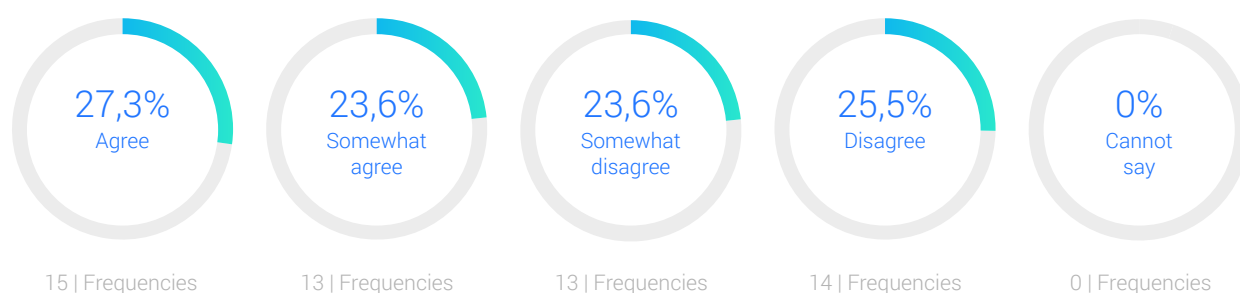


Figure 6: The staff of your legal aid centre/bureau has sufficient in-house expertise to provide services.

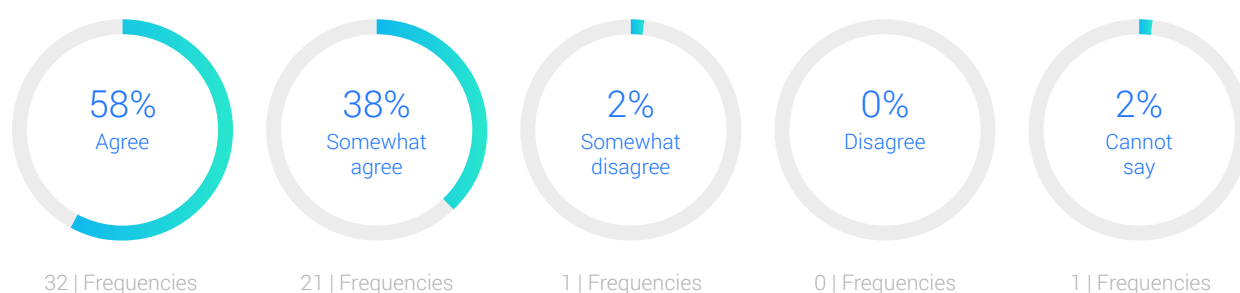


Figure 7: Your legal aid centre has access to adequate transport to reach the population that you serve.

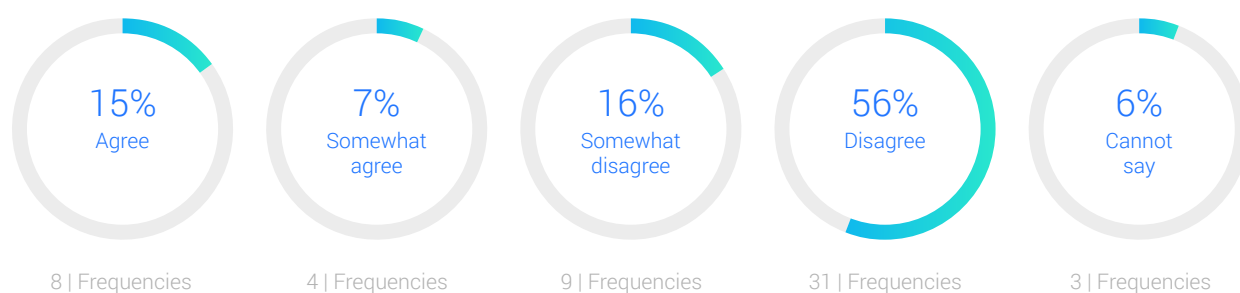


Figure 8: The level of professional training of employees of the free legal aid provision system is currently adequate.

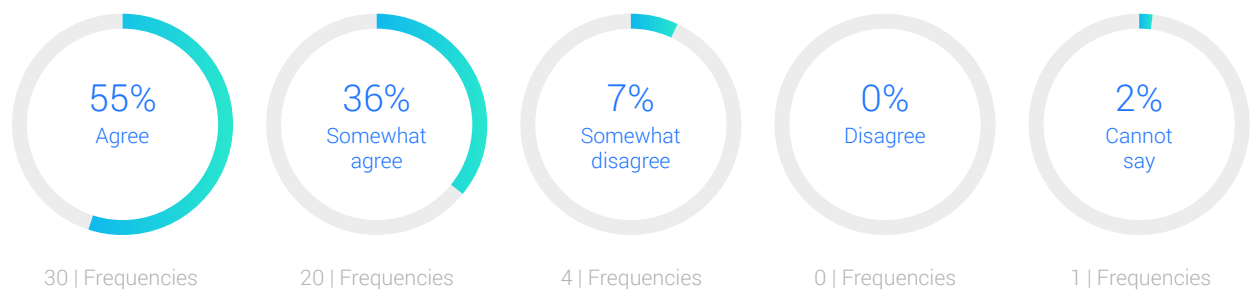


Figure 9: You have sufficient opportunities for professional growth and career development within the legal aid system.

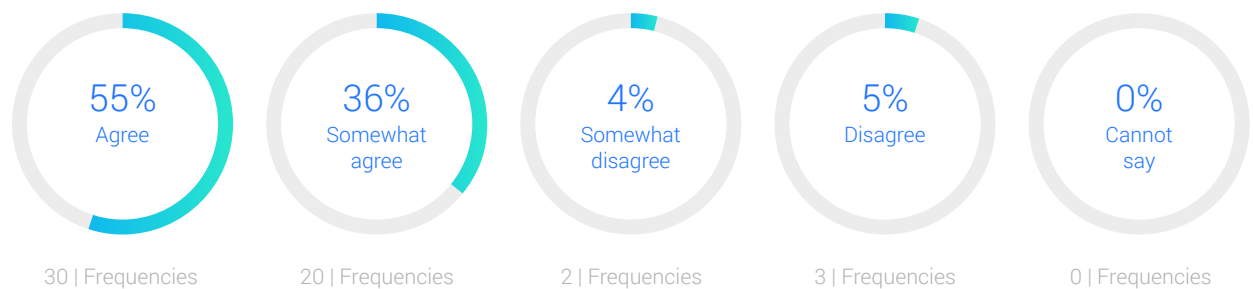


Figure 10: You would like additional training in (choose as many as applicable).

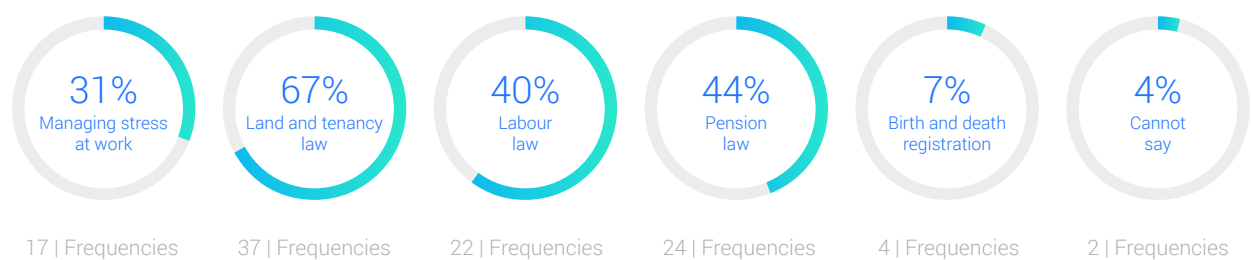


Figure 11: Legal aid centre/bureau has access to a sufficient number of private legal providers.

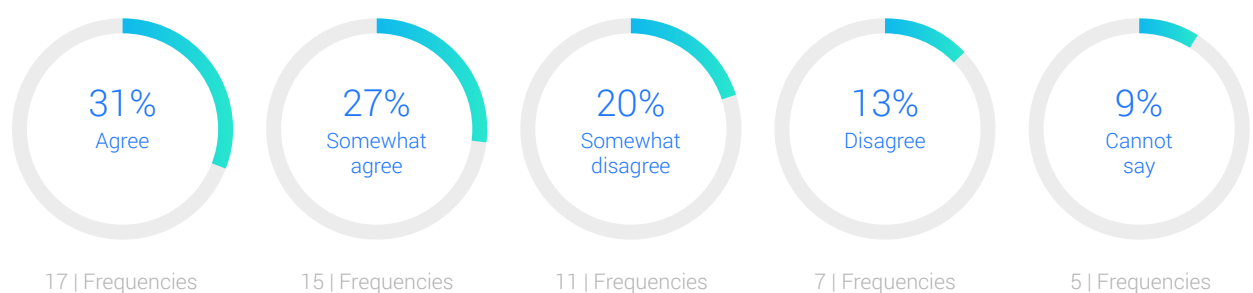


Figure12: Legal aid centre/bureau has access to private legal providers with sufficient expertise to carry out their work.

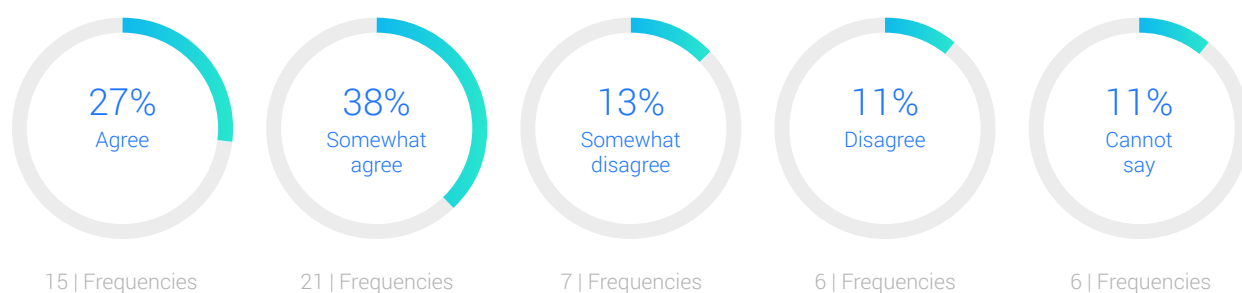


Figure13: When private lawyers are used as legal aid providers, they are assigned based on their specialty.

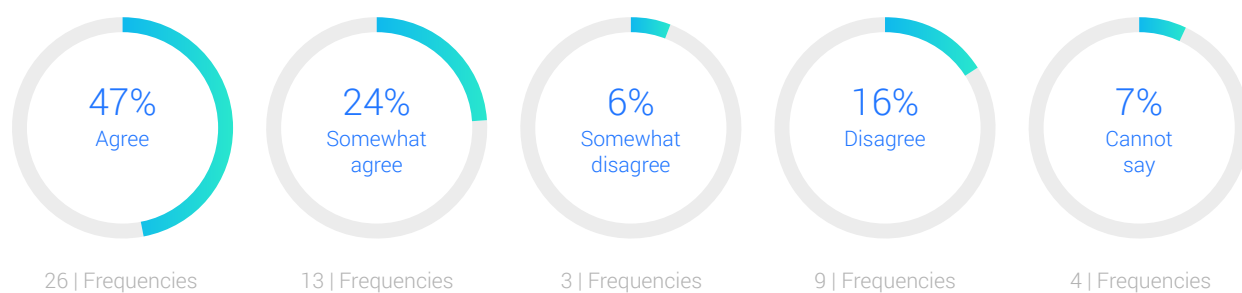


Figure 14: Private legal aid providers are monitored and evaluated.

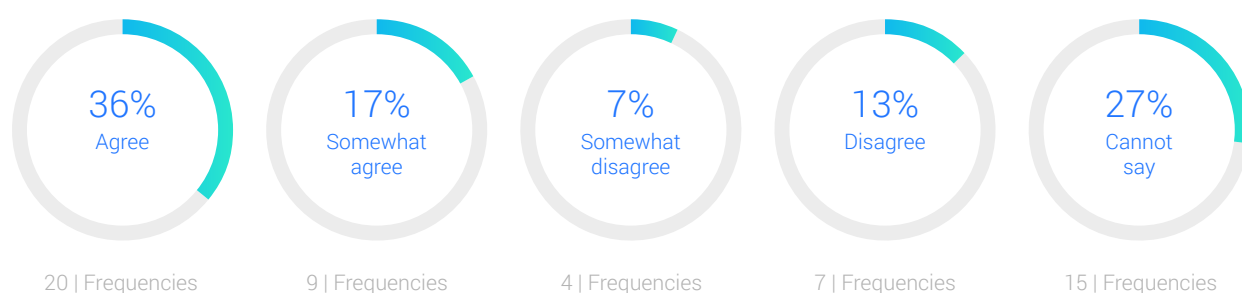


Figure 15: The current legislation regarding the free legal aid system needs improvement.

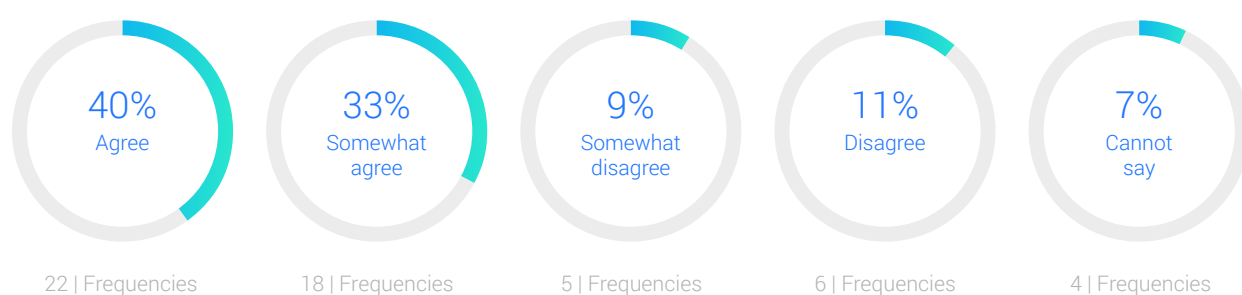


Figure 16: There has been corruption in the free legal aid provision system.

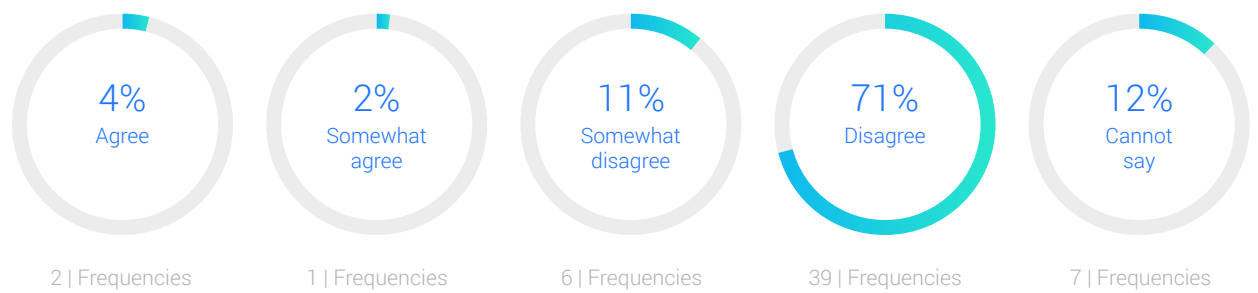


Figure 17: The range of people who are entitled to free secondary legal aid is currently adequate.

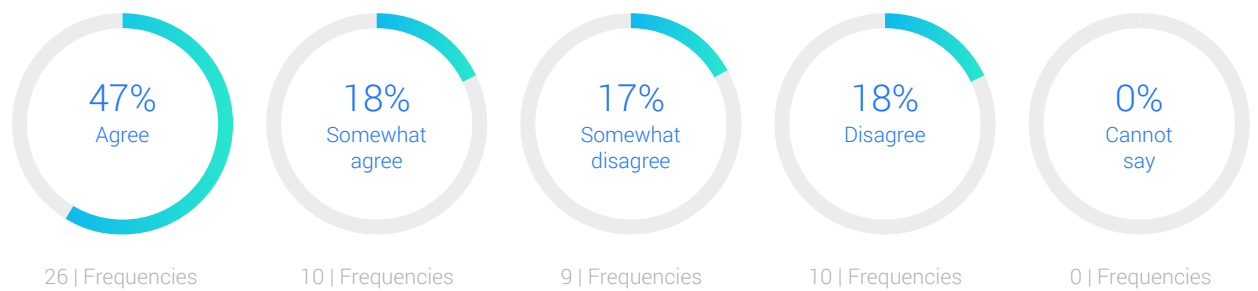


Figure 18: The range of people who are entitled to free secondary legal aid should be expanded.

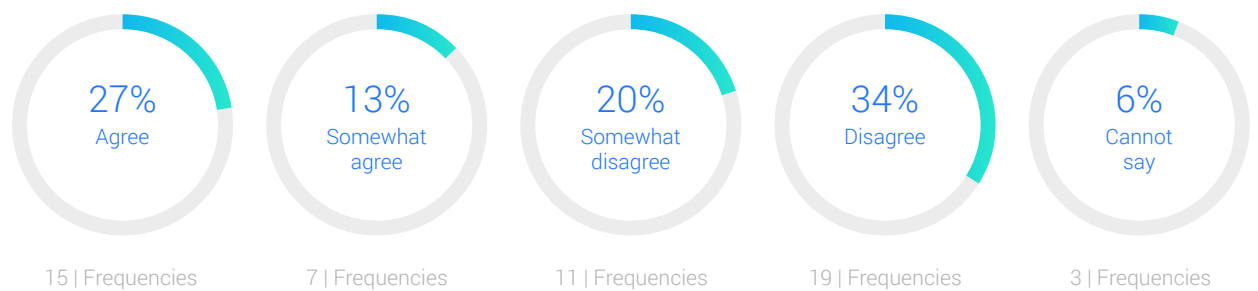


Figure 19: The range of people who are entitled to free secondary legal aid should be reduced.

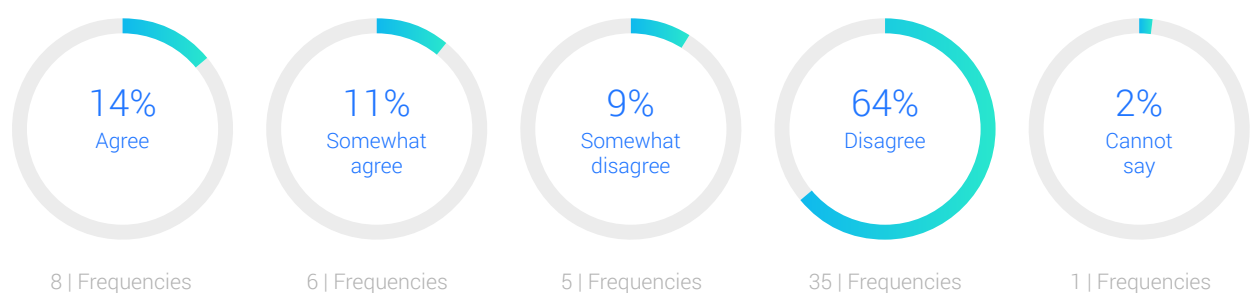


Figure 20: The current system for collecting and analysing statistical information on legal aid is adequate.

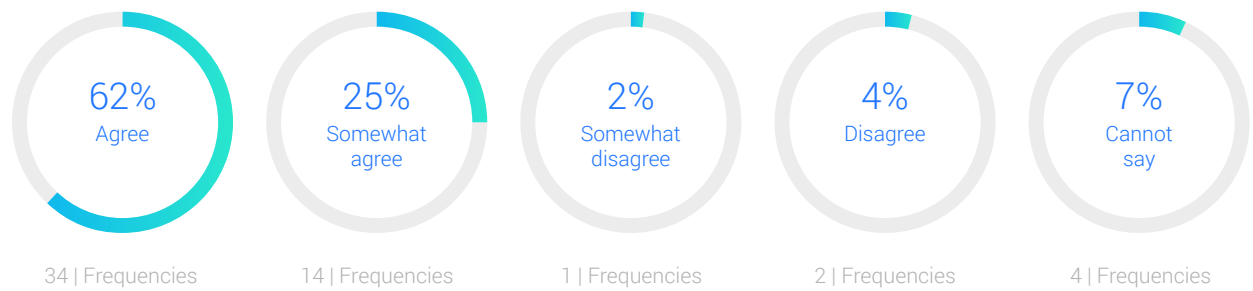


Figure 21: The legal aid system has sufficient number of providers in rural areas.

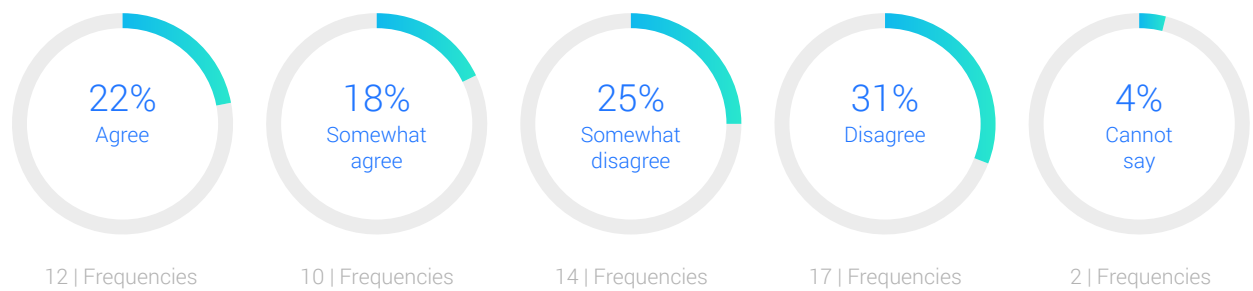


Figure 22: The legal aid system has sufficient number of providers in urban areas.

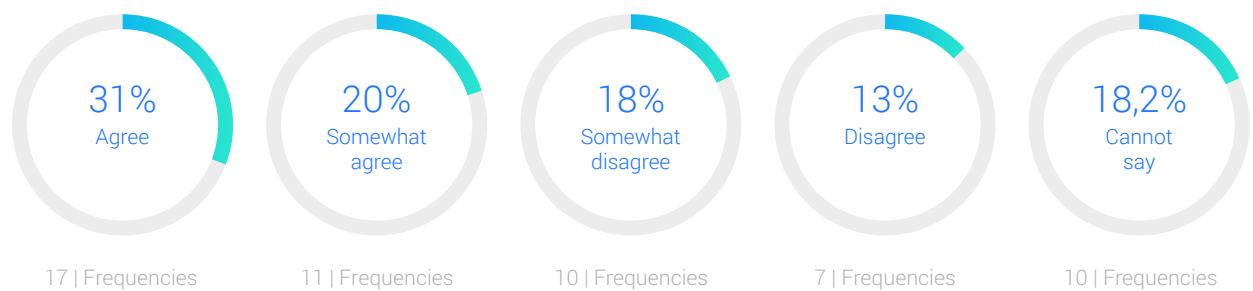
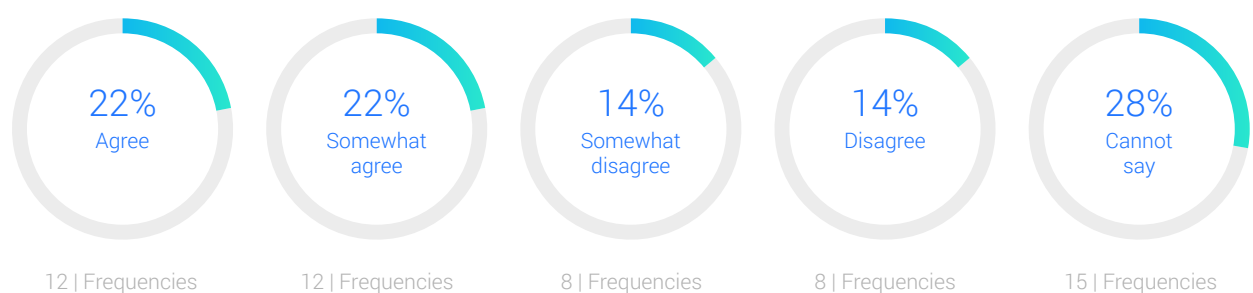


Figure 23: The legal aid system has sufficient number of providers in insecure areas.



Judges survey

Figure 24: The cases in your court involving lawyers of the free legal aid system (including private lawyers funded by legal aid) in 2016-2018 were.

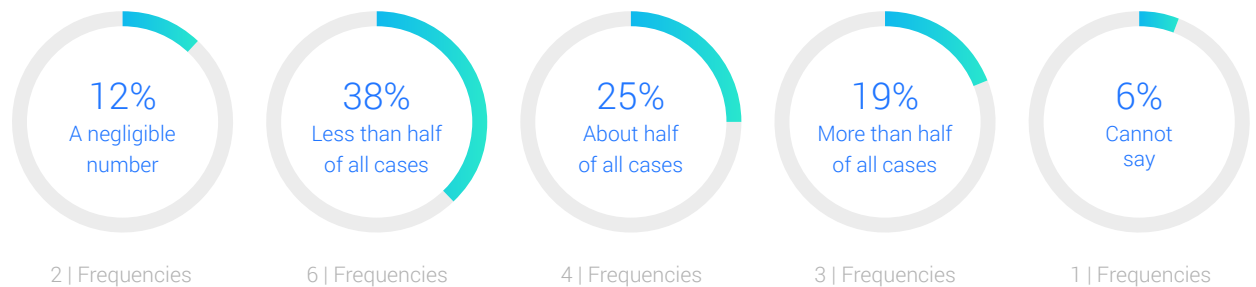


Figure 25: The quality of representation to persons who received legal aid was as good as those who paid for their own representation.

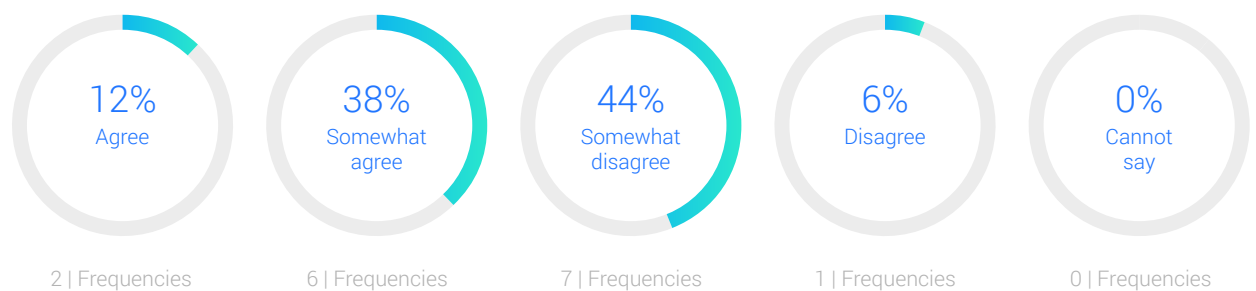


Figure 26: Delays caused by the absence of free legal aid were a significant problem.

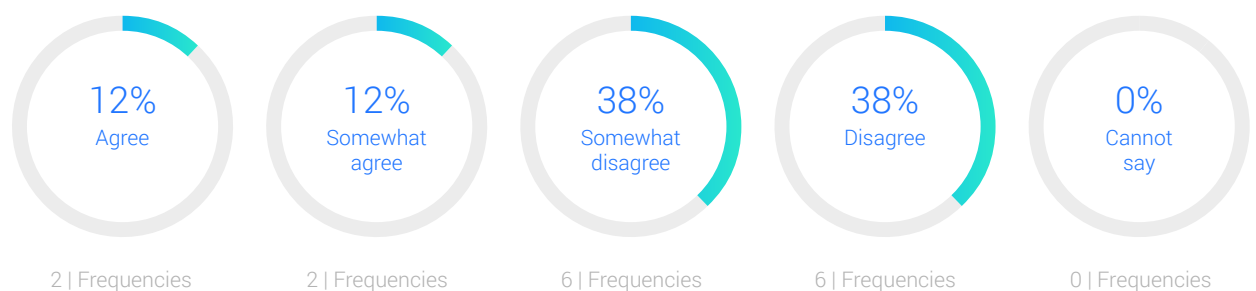


Figure 27: Your court issued rulings against free legal aid system lawyers (including legally aided private lawyers) in a disproportionately high number of cases.

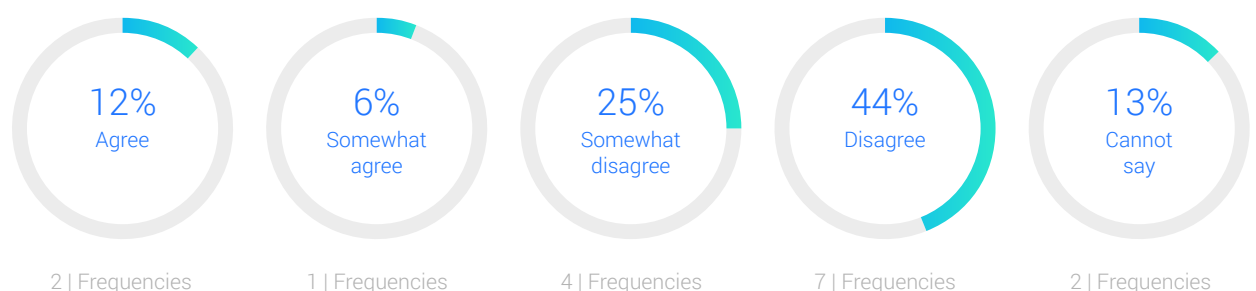


Figure 28: Your court issued rulings to the Regional Qualifications and Disciplinary Commission regarding the possible violations during the legal representation of interests by the free legal aid system lawyers in a disproportionately high number of cases.

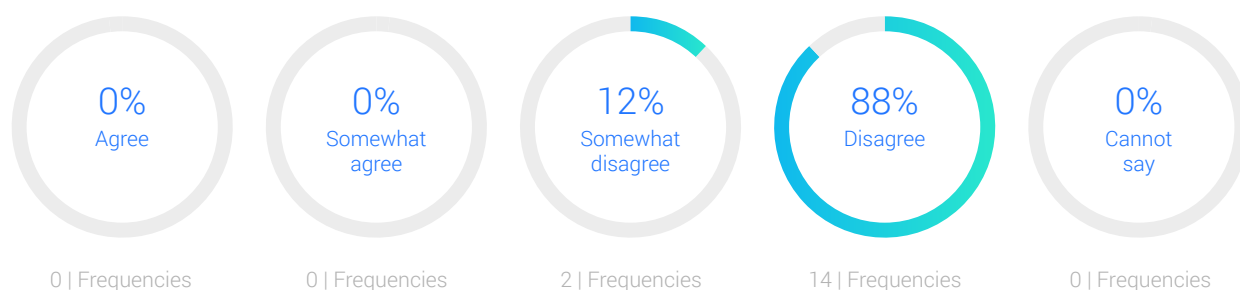


Figure 29: You have received complaints from the legally aided party regarding the actions / inactivity of the legal representatives of the free legal aid system.

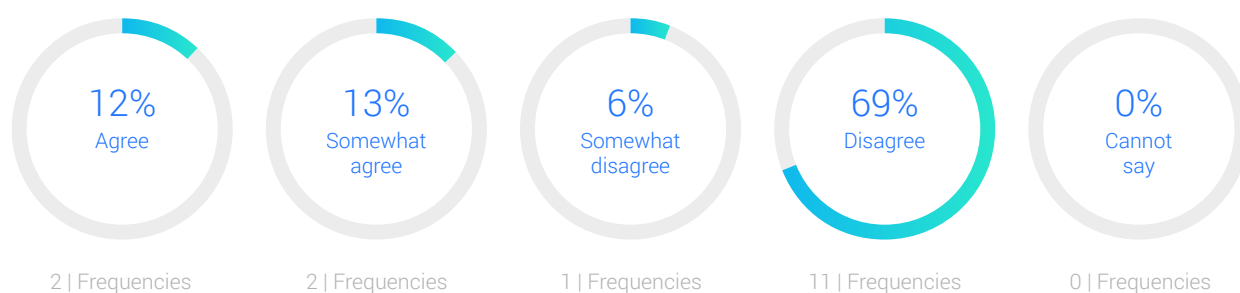


Figure 30: You are aware of cases when the legally aided party refuses his / her legal representative who is a lawyer of the free legal aid system.

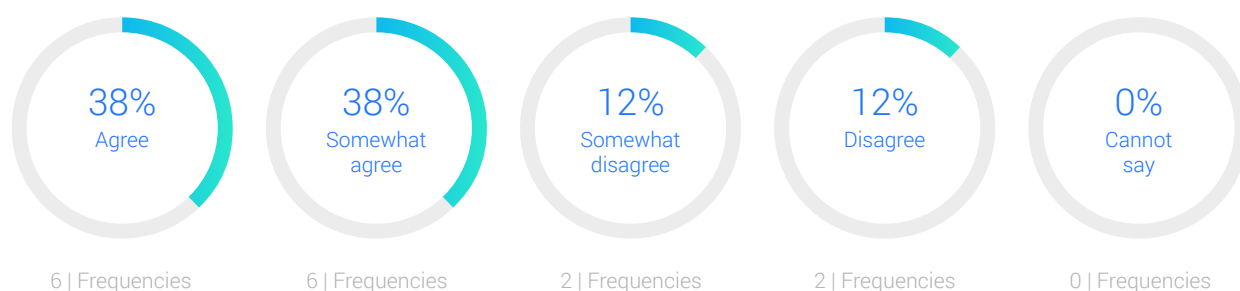
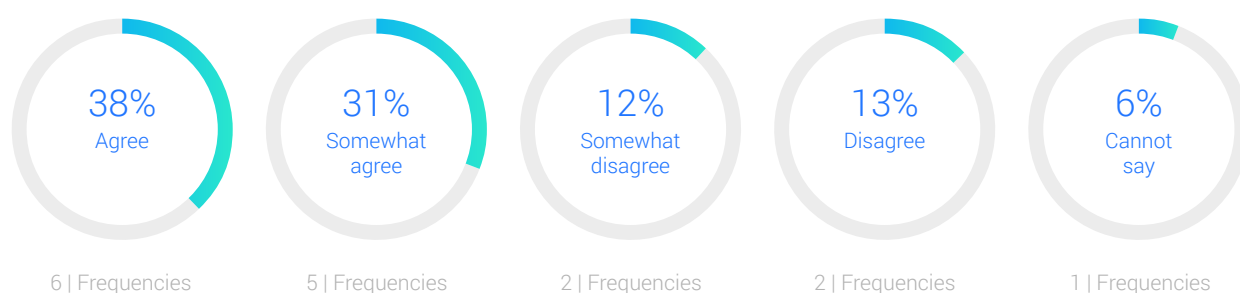


Figure 31: Certain provisions of the law should be amended in order to improve the provision of free of charge secondary legal aid.



Appendix 3:

List of focus groups with locations

During the qualitative survey, 22 focus groups were conducted in Donetsk and Luhansk oblasts among three categories of respondents. The first category consisted of randomly selected respondents. Eight focus groups were conducted with them in the following settlements:

Donetsk Oblast

Large settlements

Kramatorsk	1 focus group
Mariupol	1 focus group

Small settlements

Illinivka	1 focus group
Vuhledar	1 focus group

Luhansk Oblast

Large settlements

Sievierodonetsk	1 focus group
Starobilsk	1 focus group

Small settlements

Nyzhnia Duvanka	1 focus group
Popasna	1 focus group

Appendix 3: List of focus groups with locations

The second category includes users of free secondary legal aid. There were conducted 8 focus groups in the following settlements:

Donetsk Oblast

Large settlements	
Kramatorsk	1 focus group
Mariupol	1 focus group
Small settlements	
Manhush	1 focus group
Velyka Novosilka	1 focus group

Luhansk Oblast

Large settlements	
Sievierodonetsk	1 focus group
Starobilsk	1 focus group
Small settlements	
Stanytsia Luhanska	1 focus group
Milove	1 focus group

The third category consists of representatives of non-governmental NGOs. In total, 6 focus groups were conducted in such settlements:

Donetsk Oblast

Kramatorsk	2 focus group
Mariupol	1 focus group

Luhansk Oblast

Sievierodonetsk	2 focus group
Starobilsk	1 focus group

Appendix 4:

List of key informant interviewees by function

Coordinating Centre for Legal Aid Provision, Kyiv

National director

Head of department of regional and local centres

Head of department of quality control

Deputy national director

Head of department of assessing eligibility

Regional Centre, Kharkiv

Head of regional centre

Deputy head of regional centre

Head of department of arranging legal aid

Former head of department of quality control

Private lawyer

Kramatorsk

NGO employee

Head of Roma community

Legal aid bureau employee

NGO employee

Legal aid bureau employee

Judge

Private lawyer

NGO employee

Six employees of local legal aid centre

Appendix 4: List of key informant interviewees by function

Zaporizhzhia

Head of regional centre

Sievierodonetsk

Five employees of local legal aid centre

Mariupol

Six employees of local legal aid centre

Judge

Manhush

Two employees of local legal aid bureau