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Деліні М. М.

Ризик-менеджмент в публічному управлінні: міжнародний аспект

У цій статті розглядаються приклади управління ризиками на урядовому рівні. Було досліджено розвинені країни світу, а саме: Великобританія, Австралія та Канада, де управління ризиками уряду характеризується достатньо високим рівнем. Це дало змогу визначити напрями розвитку ризик-менеджменту на державному рівні в Україні. Наведено також приклади світових рейтингів, щоб оцінити надійність співпраці з різними країнами світу за рівнем їх ризику та сформулювати власну політику управління ризиками на основі результатів рейтингу.

Ключові слова: управління ризиками, органи державної влади, бюджетний ризик, управління ризиками підприємства, система управління ризиками.

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JEL classification K40, P37, P 48

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A GENERAL OVERVIEW OF THE MODERN LEGAL AID SYSTEM OF UKRAINE

The paper provides a general overview of the legal aid system of Ukraine as it is by the end of 2019. Particularly, it highlights main legislative framework, organisation structure of the legal aid system of Ukraine and the model of its operation. Statistical data on legal aid provided is recovered, which may be useful for future studies.

Keywords: access to justice, legal aid, rule of law, Ukraine, justice.

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Introduction

Legal aid is one of the most important instruments for ensuring that a person having legal problems has effective access to justice and ways to protect his or her interests in a lawful manner. The part it plays in ensuring all-encompassing and comprehensive rule of law is highlighted in a number of high-level international treaties, most importantly in the International Covenant on Civil and Political Rights (Article 14) and in the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 6). It is further solidified in the guidelines and recommendations of international organisations and the case-practice of the European Court on Human Rights.

Despite this, only a limited number of countries, even among the most developed, enjoy institutionally developed legal aid systems, as they are hard to create, build and effectively maintain for

a long range of reasons, starting from the trivialities of budgeting and geographical accessibility, and ending with the problems of impartiality and quality management of legal services. In this context, the rise of extensive and highly institutionalised legal aid system in such a transitional country as Ukraine seems to be even more surprising. More surprising still, in the few years of its existence it is already considered by some experts to be one of the best ones out there and serves as a source of good practices – few jurisdictions share 85% client satisfaction level of governmental services, and, of course, it is unprecedented in Ukraine [1].

Nevertheless, as only several years have passed since its creation, its coverage in scientific literature is almost no-existent. This paper aims at highlighting the legislative and organisational frameworks of the legal aid system of Ukraine, exploring the intricacies of its functioning and reasons for its successful functioning since its creation till the date of the research.

It is important to note the following:

Usually, only legal aid schemes for criminal cases are considered mandatory for states, especially in Europe where their establishment is based on the Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Legal aid in civil cases is often neglected or left for the consideration of local governments and civil society. Nevertheless, in Ukraine the system of state-guaranteed legal aid covers them both and, unlike in Israel, where civil and criminal legal aid providers are separate entities, both kinds of aid are provided by a single institution.

Problem statement

The legal aid system of Ukraine has been created only recently, but expanded rapidly – the development process started in 2012, and the bulk of current capacities was reached by 2016[2]. Therefore, it is yet to be comprehensively covered by the scientific community in its contemporary form; the sources that are available are mostly obsolete and do not reflect the current state of things.

In spite of this, Ukraine is considered a source of best practices in this sphere, as reflected by the large number of speakers at relevant high-level conferences, success of the First Kyiv International Legal Aid Conference, Ukrainian A2J School of Practice and, most importantly, inclusion of the representatives of the legal aid system of Ukraine to the European Committee on Legal Co-operation Drafting Group on Legal Aid, along with Austria, Belgium, Finland, France, Latvia, Lithuania, Portugal.

The abovementioned facts indicate the growing demand in the information about the Ukrainian legal aid system, and this paper will aim to cover it.

Presenting of the main material

There are two basic national legal acts that stipulate for the system of state-guaranteed legal aid in Ukraine: the Constitution of Ukraine (hereinafter – the Constitution) and the Law of Ukraine “On free legal aid” (hereinafter – the Law); legal aid is also mentioned in several codes, to ensure that it can be effectively implemented from the legal perspective.

Article 59 of the Constitution provides every citizen with the right to receive legal aid; Article 63, in turn, stipulates 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 [3]. According to the Civil Procedure Code of Ukraine, litigants in civil cases have a right to free legal representation [4], while the Code of Administrative Procedure of Ukraine and the Code of Criminal Procedure of Ukraine similarly provide that persons before the courts have the right to free legal representation (defence) in the manner prescribed by law [5;6].

However, although the Constitution dates from 1996, it was not until 2011 that Ukraine adopted the Law [7]. The Law provides the basis for the functioning of the system, defining the main bodies involved, types of legal aid that may be provided, as well as eligible categories of people.

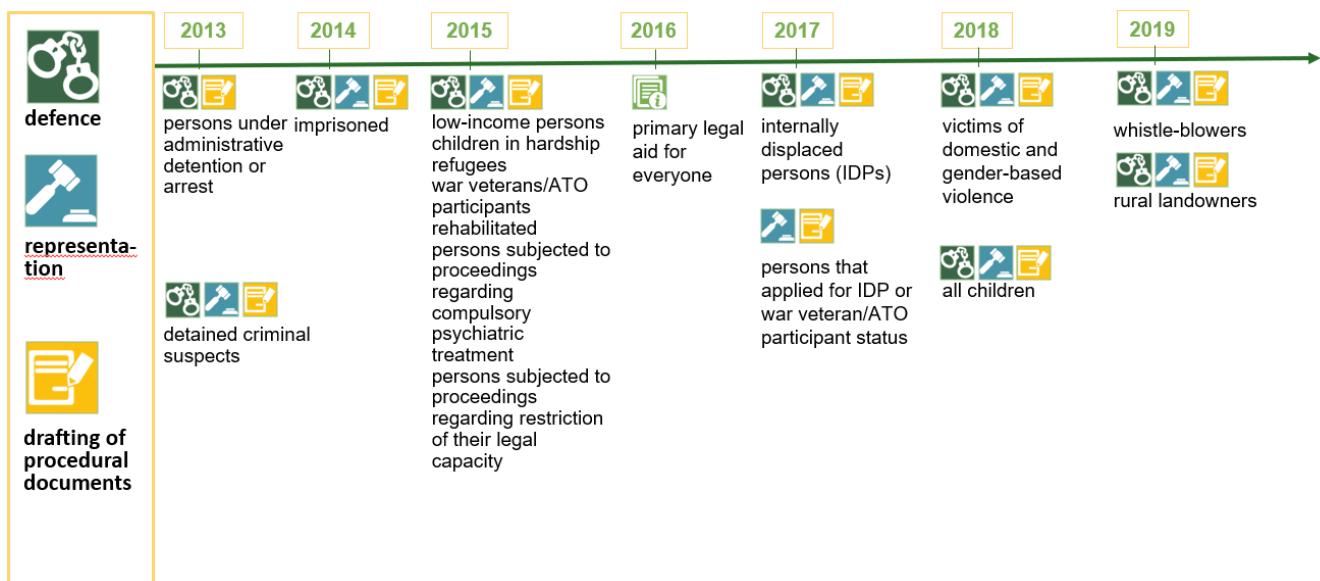
First of all, let us overview the types of legal aid that may be provided.

In Ukraine, primary and secondary legal aid is provided. Primary legal aid includes legal advice and information about their rights, including the right to challenge actions or omissions of government authorities, as well as the aid in the drafting of non-procedural documents. Secondary legal aid corresponds to the rights contained in Article 6(3)(c) of European Convention for the Protection of Human Rights and Fundamental Freedoms 14(3)(d) of the International Covenant on Civil and Political Rights – 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 [7;8;9].

All persons under the jurisdiction of Ukraine are entitled to primary legal aid. Provision of secondary legal aid is, on the other hand, limited to a number of specific categories of people (timeline of introduction is presented at the Figure 1):

- persons whose average monthly income is lower than the 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;
- persons under administrative detention or arrest;
- criminal suspects arrested by investigative authorities;
- imprisoned;
- persons in respect of which a special pre-trial investigation or a special judicial proceeding is carried out;
- refugees, as well as stateless persons and foreign citizens detained for identification and deportation;
- war veterans and those, who applied for such status, persons with special merits, those who have rendered special labour services to the country, and victims of Nazi persecution;
- stateless persons and foreign citizens who are entitled to legal aid in accordance with Ukraine’s international agreements.
- persons who are the subject of mandatory psychiatric care or civil incapacitation proceedings;
- persons rehabilitated in accordance with Ukrainian legislation;
- victims of domestic and gender-based violence;
- whistle-blowers;
- rural landowners [7].



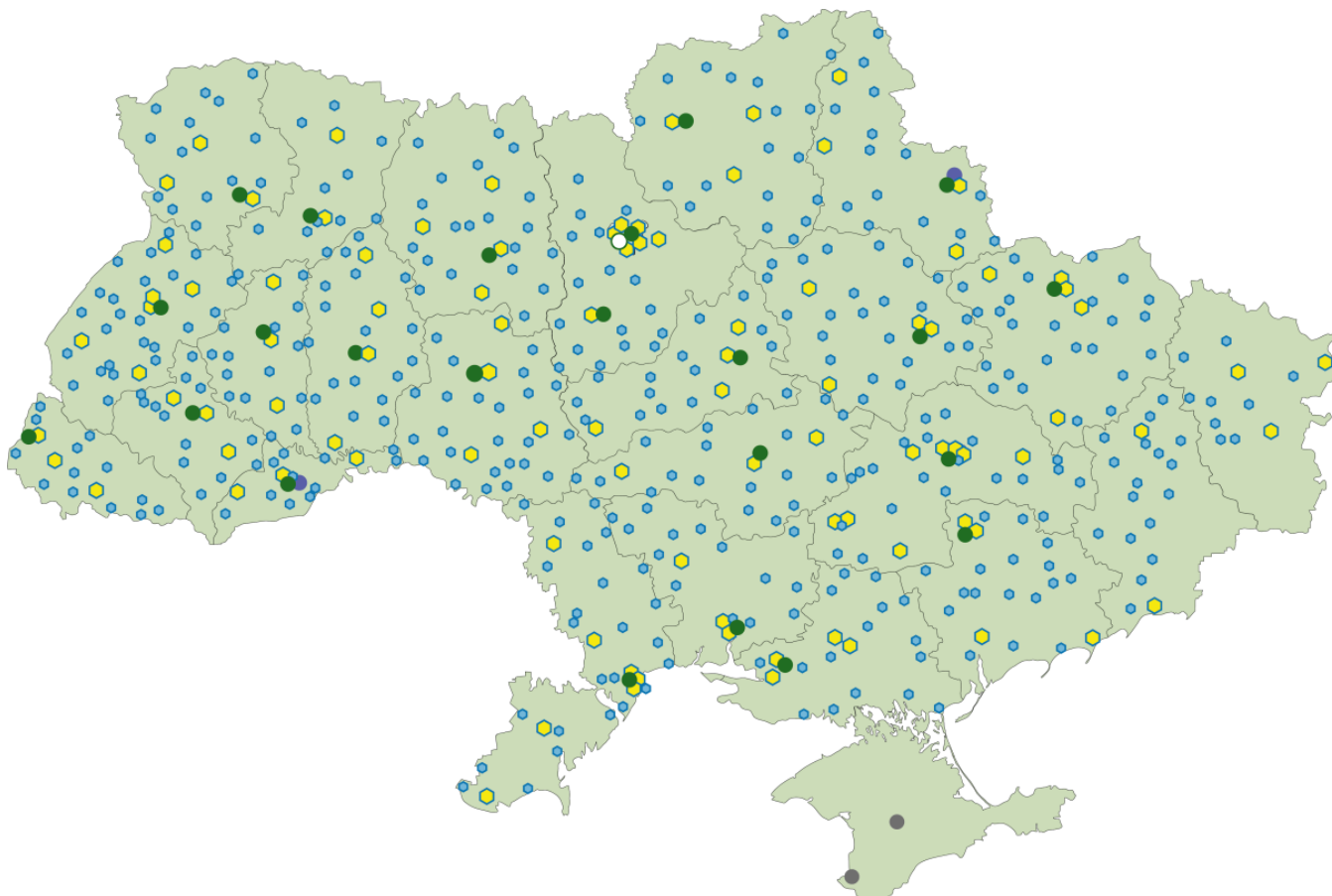
Source: composed by the authors based on the history of legislative changes.

Fig. 1. Timeline of the introduction of new eligible categories for secondary legal aid

As it was noted earlier, the Law also stipulates the general structure of the legal aid system of Ukraine, which is further elaborated on in the Regulation of the Cabinet of Ministers of Ukraine “On the Coordination Centre for Legal Aid Provision” [10].

State-guaranteed legal aid is administered through the Coordination Centre for Legal Aid Provision, and its regional and local offices – regional centres for 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 regions, contracting criminal defence lawyers, ensuring secondary legal aid provision in criminal proceedings and coordinating the local centres in the given regions (Figure 2). 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. Moreover, distant access points and mobile consulting groups regularly commence to cover the most far-off and inaccessible localities [2;11].



Source: legalaid.gov.ua

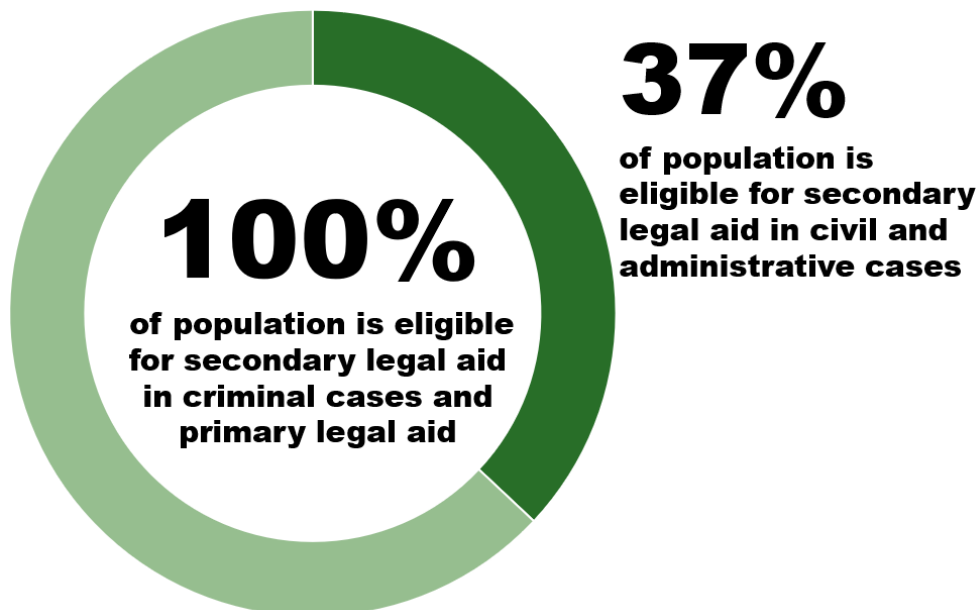
White dot represents the Coordination Centre for Legal Aid Provision; purple – offices of the Single Legal Aid Contact Centre; yellow – the local centres; green – the regional centres; blue – the legal aid bureaus. As of the end of 2019, some of the local centres were transformed into bureaus, but the general number of access points and geographical coverage did not decrease [11].

Fig. 2. Map of the legal aid system of Ukraine as of 2018

As of the human resources perspective, the legal aid system of Ukraine uses a hybrid approach of in-house and ex-officio models. It employs administrative staff; its regional, local centres and legal aid bureaus also employ in-house jurists (persons with higher education in the field of law, who practice law without a bar license) and contract lawyers ex-officio. Secondary legal aid provision in criminal proceedings is provided exclusively by lawyers. As of the end of 2019, secondary legal aid provision in civil and administrative cases is almost evenly distributed between around 3000 contracted lawyers and around 1600 in-house jurists (in 2016 9,7% of cases were covered by jurists, in 2017 – 26,1%, in 2018 – 49,5%). Contracted lawyers receive case-based remuneration that includes positive coefficients for the complexity and the results of a particular case. In-house jurists, on the other hand, receive fixed salaries,

with a limited set of bonuses. It has to be noted that in-house jurists generally receive lower remuneration than the contracted lawyers [2].

The combination of the vast number of eligible population (see Figure 3), the territorial organisation of the legal aid system aimed at maximising the geographical coverage and the proactive legal enlightenment activities provides for almost 700 000 cases of legal aid provision annually [11].



Source: composed by the authors based on the comparative analysis of eligible categories and publicly available demographical data

Fig. 3. Distribution of Ukrainian population by eligibility

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 have their own regional centres, and fall under the centres in Zapoizhzhia and Kharkiv respectively. The regional centre for the Autonomous Republic of Crimea was disbanded due to the Russian annexation of the peninsula in 2014.

Conclusions

While still young, the legal aid system of Ukraine's legislative and organisational framework allowed it to achieve commendable results, both in the volumes of legal aid provided and the client satisfaction. The impressive volume of legal aid provided is stipulated by constantly expanding number of eligible categories, proactive legal enlightenment activities and great physical accessibility – more than 500 offices in regions and even the most far-off and small localities. The rapid expansion and the extensive network of offices, though, rise the question of the sustainability of the operations in the light of the limited spending from the State Budget of Ukraine – reorganisation of local centres into legal aid bureaus and increase of the legal aid provided by in-house jurists already show the effect of the aforementioned constraints.

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Дейнеко О. Т., Дейнеко Л. В.

Загальний огляд сучасної системи надання безоплатної правової допомоги в Україні

У статті наведено загальний огляд системи надання безоплатної правової допомоги України станом на кінець 2019 року. Зокрема, висвітлено основну нормативно-правову базу, організаційну структуру системи надання безоплатної правової допомоги України та її операційну модель. Систематизовано статистичні дані з наданої безоплатної правової допомоги, що можуть бути корисними для подальших досліджень.

Ключові слова: доступ до правосуддя, правова допомога, верховенство права, Україна, юстиція.

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JEL classification F15, L90

Kostiantyn V. Sapun

THE POLITICAL ASPECT OF THE DEVELOPMENT OF MOTOR TRANSPORT IN POLAND

The article is devoted to the features of transport and the transport policy of Poland. The goals, principles and perspective directions of development of this sphere are also described and analyzed. The main factors influencing the transport of Poland are traced, and a behaviorist approach to the study of this sphere is considered.

Keywords: transport policy of Poland, behaviorism in relation to transport, goals of transport policy, and principles of transport policy.

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The main players operating in the field of transportation, various specialized state services and political scientists, as well as economists, pay a lot of attention to attracting foreign investment, taxation rules, the dynamics of growth and development of the international and domestic transportation market, study international tourist flows and try to predict the prospects for this area in the future.