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Subjects of the Right to Free Professional Legal Assistance

On the basis of doctrine and national law in force the article investigates the right of the free legal aid. The legislation of Ukraine on realization of this right has been analyzed.

Part 1 of Article 59 of the Constitution of Ukraine provides that everyone has the right to legal assistance. In the circumstances provided by law, such assistance is provided free of charge.

On 2 June 2011, the Parliament of Ukraine adopted the Law of Ukraine «On Legal Aid». The purpose of this Law is to define the right to legal aid, procedures for the exercise of this right, grounds and procedure for providing legal aid, state guarantees concerning legal aid and other issues concerning the provision of legal aid services. The purpose of this Law is, inter alia, to determine the content of the right to legal aid, procedures for the exercise of this right, grounds and procedure for providing legal aid, state guarantees concerning legal aid and so on. The law envisages both primary and secondary legal aid.

Primary legal aid concerns the state obligation to inform people about their rights and freedoms, and means to protect these rights and freedoms through the legal system by appealing against decisions, actions or inaction of the state authorities, local self-government bodies, officials and officers. Primary legal aid includes such legal services as: providing access to legal information; advice and clarification of legal issues; drafting claims, complaints and other legal documents (excluding procedural documents); and assisting in the access to secondary legal aid and mediation.

Secondary legal aid is the state's obligation to provide equal opportunities for access of persons to justice, and includes such legal services as defense; representation of interests of persons in courts, other state agencies, local self-government bodies and before other persons; and drafting procedural documents.

Criteria for person's access to legal aid should be allocated and considered in two dimensions. Firstly, they might depend on the type of legal aid, which require an individual. In accordance with this, the primary legal aid can be received by everyone. Secondly, the access to the secondary legal aid is conditioned by its own criteria. These criteria are: low income of a person, belonging of an individual to categories of persons who by law are entitled to legal aid, the complexity of the case, and desire of proper justice delivery.

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