

## 1. LEGAL AID IN FINLAND

Legal aid is governed by two acts:

- Act on legal aid and public guardianship districts and
- Legal Aid Act

and by four decrees:

- Government decree on legal aid and public guardianship districts,
- Ministry of Justice decree on legal aid and public guardianship districts, locations of legal aid and public guardianship offices, and municipalities whose public guardianship services the districts are responsible for,
- Government Decree on Legal Aid, and
- Government Decree on Legal Aid Fee Criteria.

Legal aid is administered by state legal aid offices and courts. Legal aid is granted by the state legal aid offices. If a legal aid office does not accept a legal aid application and deems that there is no reason for a rectification, the application may be submitted to a court for consideration. If the court does not grant legal aid, it is possible to appeal against the decision.

A legal aid office has the right to contact the authorities and insurance companies in order to check the information that the applicant has provided on his or her financial circumstances. Also banks are under the obligation to provide the legal aid office with the assistance it needs, if there is reason to doubt the reliability of the information supplied by the applicant. If bank information is to be requested, the applicant must be notified of the request in advance. Legal expenses insurance has priority over public legal aid.

A recipient of legal aid must inform the legal aid office of changes to his or her circumstances, including income, expenses and wealth. If the financial circumstances of a recipient of legal aid change, the legal aid office may amend the legal aid decision in order to take the change into account. And again, as in any decision the legal aid office makes concerning legal aid, the decision may be submitted to a court for reconsideration.

The funding of legal aid comes from the Budget via the Ministry of Justice.

### Providers of legal aid

Legal aid is provided by public legal aid attorneys and private attorneys. A public legal aid attorney is a lawyer working at a state legal aid office. Private attorneys are advocates or other private attorneys. An advocate is a lawyer who is a member of the Finnish Bar Association and whose activities are supervised by the Bar Association and the Chancellor of Justice. All private attorneys who are not advocates and who deal with legal aid cases have to

be licensed attorneys. A licensed attorney is a lawyer who has been granted a permit by the Licensed Attorneys Board to act as an attorney. The activities of public legal aid attorneys and licensed attorneys are supervised in the same manner as those of advocates. Half of the public legal aid attorneys are members of the Bar.

In most cases, the applicant's first contact is the lawyer of his or her choice, who then draws up the application for legal aid. The recipient of legal aid has a choice of attorney in any court case. The client may choose whether he or she wishes to be assisted in judicial proceedings by a public legal aid attorney working at the state legal aid office, an advocate, or a licensed attorney.

In matters that are not to be brought before a court (e.g. provision of legal advice or drawing up of a document, such as an estate inventory or an agreed distribution of matrimonial property), legal aid is given only by public legal aid attorneys. In these situations, the recipient of legal aid cannot choose a private attorney, unless there is a special reason for it. The reason may be that the legal aid office has a conflict of interest in the matter, is too busy to take the client, or the matter requires special knowledge that the public legal aid attorneys of the office do not have.

## **State legal aid offices**

State legal aid offices have two tasks: to provide legal aid and to grant it.

With a population of about 5.5 million and an area of about 340,000 km<sup>2</sup>, Finland has 23 legal aid offices, which are located mainly in the vicinity of the district courts. The legal aid offices have 158 locations, of which around half are service points where clients are met as required.

The legal aid offices are small: they have between 2 and 37 employees. The total number of employees is only 429, of which half are lawyers (public legal aid attorneys) and the other half office staff. Applicants for legal aid may choose which legal aid office they wish to use.

The financial and personnel administration of legal aid offices has been centralised to the legal aid and public guardianship districts. The six legal aid and public guardianship districts, which function as agencies, began their operations on 1 October 2016. This reorganisation enables the staff working at the legal aid offices to focus on legal aid decisions and the practice of law.

The Ministry of Justice is responsible for the overall management and supervision of the legal aid offices.

## 2. STATISTICS

### Operational efficiency at legal aid offices

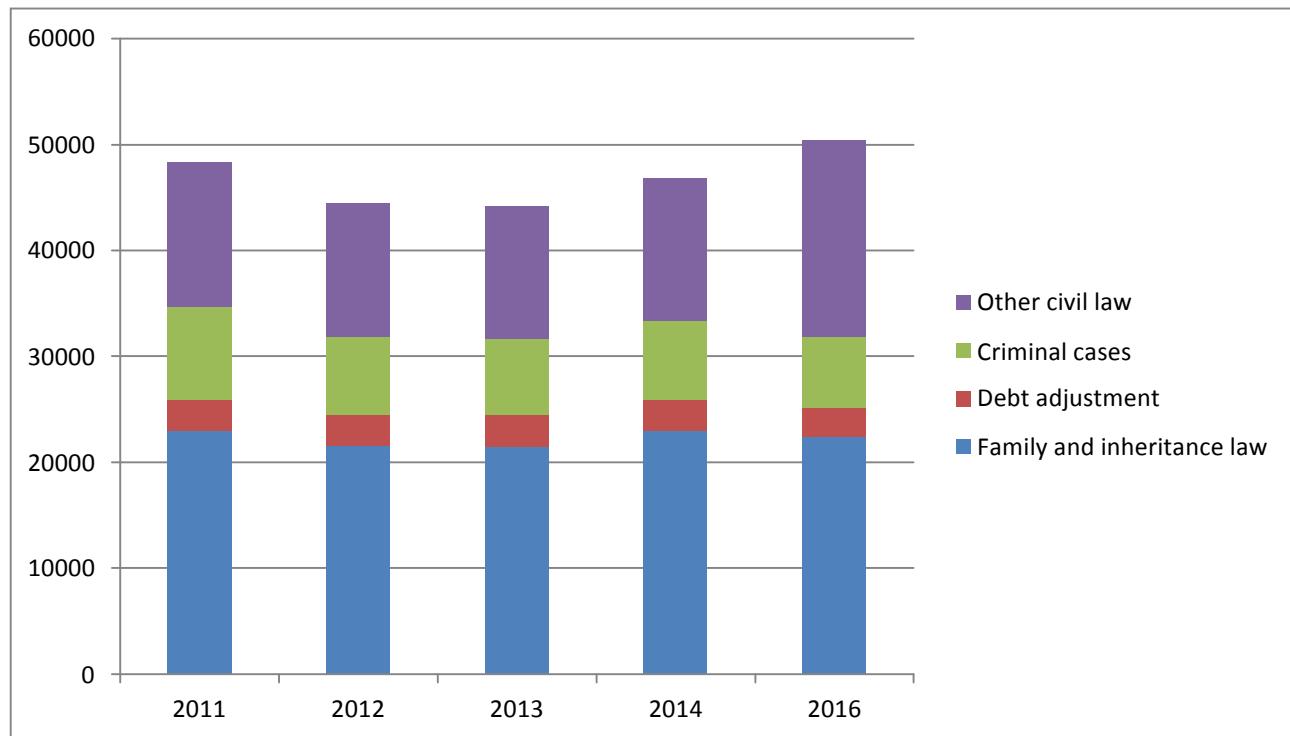
In 2016, the expenditure on legal aid at legal aid offices amounted to EUR 23 million (1 EUR = 1.0751 USD / 20 April 2017).

OUTLAYS EUR 1,000 (1 EUR = 1.0751 USD)						
	2010	2011	2012	2013	2014	2016
<b>Revenue</b>						
Services subject to a charge	4,723	5,065	5,044	5,214	5,297	5,094
<b>Costs</b>	27,659	27,215	27,146	26,024	26,696	28,056
<b>Total net outlays</b>	22,936	22,150	22,102	20,810	21,399	22,962
<b>Main operational targets</b>						
<b>Cost-effectiveness</b> (Outlays/completed case unit)	116	112	121	113	115	120
<b>Productivity</b> (Completed case unit/person)	475	485	467	478	473	445

## Outputs at the legal aid offices

In 2016, the public legal aid offices received a total of 50,369 cases. All in all, 87 per cent of the cases dealt with by the legal aid offices pertained to civil law or administrative law. Of the civil law cases, 44 per cent concerned family and inheritance law, 7 per cent concerned foreigners, 5 per cent concerned debt adjustment for private individuals and 30 per cent concerned other civil law or administrative law matters. The share of criminal cases was 13 per cent of the total.

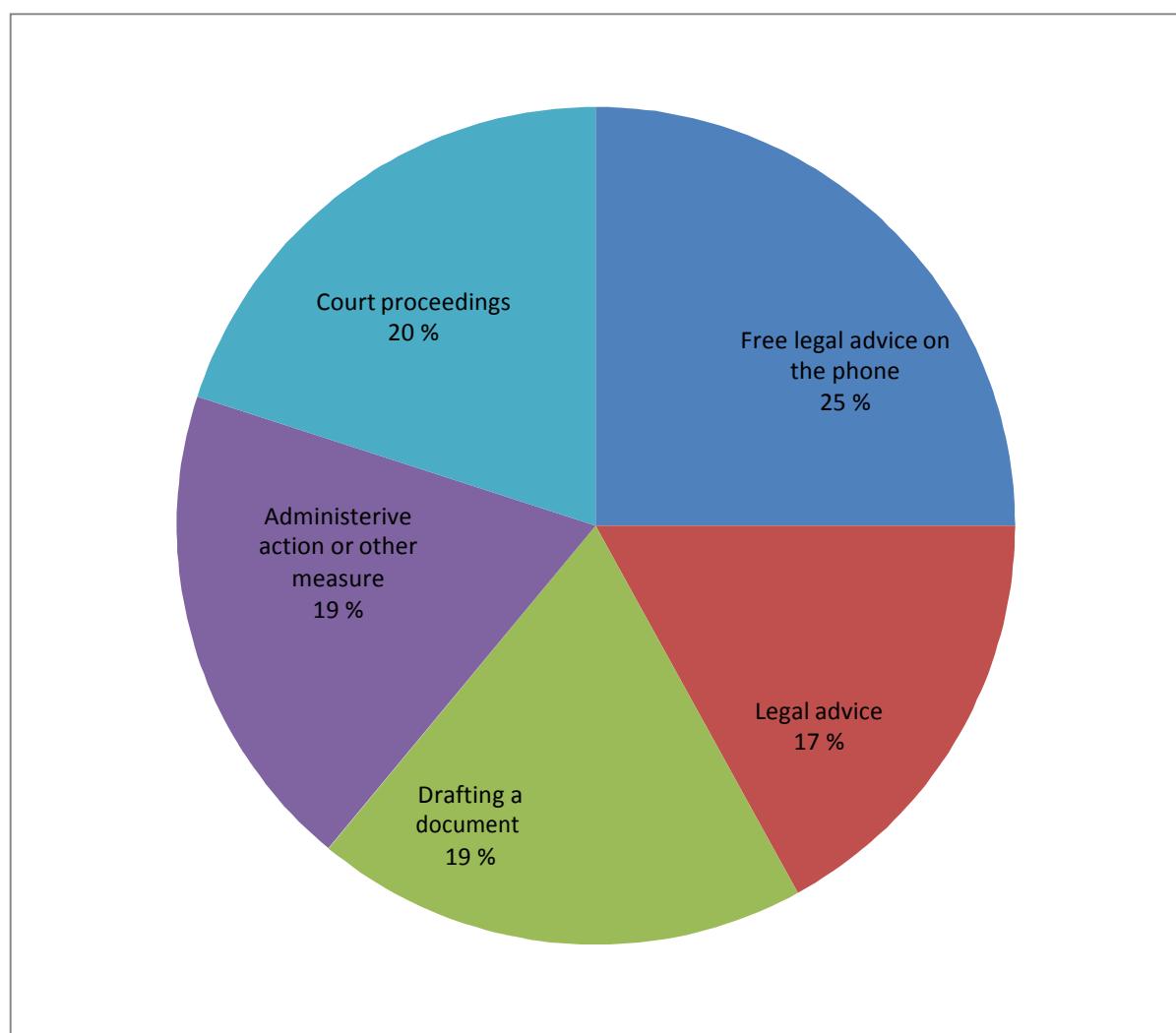
Year	2011	2012	2013	2014	2016
Family and inheritance law	22,931	21,522	21,405	22,916	22,389
Debt adjustment	2,987	2,906	3,003	2,968	2,712
Criminal cases	8,699	7,389	7,217	7,456	6,762
Other civil law	13,642	12,615	12,539	13,394	18,506
Together	48,259	44,432	44,164	46,734	50,369



## Cases dealt with at the legal aid offices

Of the 50,369 cases dealt with by the legal aid offices in 2016,

- 25 per cent were closed with free legal advice being given on the phone,
- 17 per cent with legal advice being given,
- 19 per cent with a document being drafted,
- 20 per cent with court proceedings, and
- 19 per cent either with administrative authority taking measures or by some other measure.



## Outputs and quality control at the legal aid offices

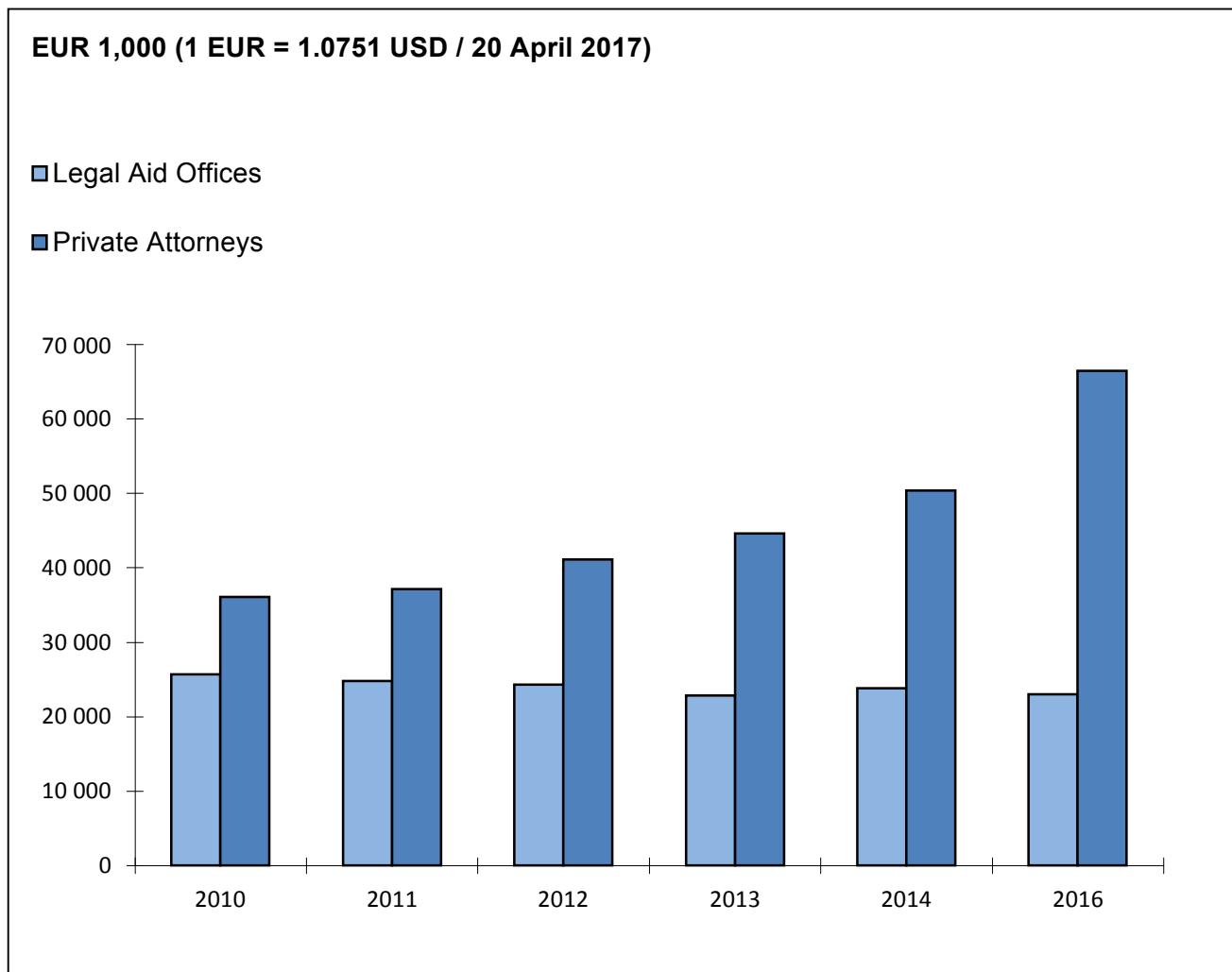
	2010	2011	2012	2013	2014	2016
<b>Cases</b>						
Incoming cases	49,667	48,259	44,432	44,724	46,438	50,369
Cases carried over to the following year	16,416	16,744	17,228	15,403	15,321	16,107
<b>Main operational targets</b>						
Closed cases	48,346	47,873	44,607	44,164	46,734	47,985
Legal Aid deci- sions (units)	22,751	22,098	24,553	26,702	26,994	35,412
Queuing time (days)	12.9	13.1	14	13.9	12.9	11.4

## Private attorneys

In 2016, private attorneys were paid EUR 66.4 million (1 EUR = 1.0751 USD / 20 April 2017) as fees and compensations in legal aid matters, which is 24 per cent more than in the previous year. Expenses have grown as the number of clients has grown. In 74 per cent of the 15,600 legal aid decisions made concerning asylum seekers applying for international protection, the applicant was assisted by a private attorney.

In 2016, private attorneys handled 41,315 cases<sup>1</sup>, of which 54 per cent were criminal cases, 29 per cent cases under the Aliens Act, and 10 per cent family law matters or matters concerning marriage.

## Cost of legal aid



<sup>1</sup> All hearings and considerations concerning a case are registered as one case. A case may, however, include multiple hearings, e.g. in a district court and in a court of appeal.

### **3. PROGRAMME FOR THE REFORM OF THE ADMINISTRATION OF JUSTICE FOR 2013–2025**

In order to shorten the total length of judicial proceedings and to guarantee the quality of legal protection, Programme for the reform of the administration of justice, the so-called legal protection programme, has been drawn up by the Finnish Ministry of Justice for the years 2013–2025. The legal protection programme was drawn up by a broad-based advisory board. In addition to representatives of the Ministry of Justice, the advisory board consisted of representatives of the different court instances, the prosecutors, the enforcement service, The Finnish Bar Association, and the National Audit Office of Finland. The legal protection programme drawn up by the advisory board contains a wide range of proposals for the development of the courts, prosecutors, enforcement and legal aid.

According to the legal protection programme, the quality of advocacy and legal aid will be improved by making the supervision more effective. More effective supervision improves legal protection while also making the consideration of matters in courts more effective. In addition, the coverage, allocation and costs of legal aid will be examined and adjusted to correspond to the factual legal protection needs. The administrative reform of the legal aid office network will also be continued, and the use of e-services and remote services will be made more extensive.

#### **Coverage and structures**

In the assessment of the coverage of legal aid, attention shall be paid to the geographical coverage as well as to the coverage in respect of different groups of parties and matters. The case law of the European Court of Human Rights concerning a person's right to public legal aid during a criminal investigation must be taken into account in this assessment. The same applies to the case law of the Court of Justice of the European Union concerning a legal entity's right to legal aid. Furthermore, the grounds for receiving legal aid in different administrative judicial matters, including tax matters, must be assessed.

The organisation of legal aid offices has been renewed recently. Since 1 October 2016, legal aid services have been organised into six legal aid and public guardianship districts, which function as agencies. Each district has three to four legal aid offices, and the total number of offices in the entire country is 23. In this structural reform, the responsibility for administrative tasks of the legal aid offices was centralised so that the administrative staff working at the districts attends to them instead of the staff of the legal aid offices. The more centralised organisation serves as a basis for developing uniform practices.

On 16 February 2017, the Ministry of Justice appointed rapporteurs to assess whether it would be feasible to further centralise administrative tasks performed by the legal aid and public guardianship districts to a single administrative unit of a national legal aid and public guardianship agency. Furthermore, the rapporteurs are tasked with assessing whether some of the tasks related to the substance of legal aid could be performed or steered at national level. This assessment concerns, for example, legal aid decisions and the provision of legal counselling through various channels. The term of the rapporteurs ends on 29 December 2017.

Another rapporteur appointed by the Ministry of Justice on 2 February 2017 is tasked with examining and observing the practices in the processing of legal aid applications. It has been possible to apply for legal aid electronically since 2010. The case management system for legal aid cases, Romeo, is a national information system used by legal aid offices and courts. The introduction of e-services at legal aid offices has brought significant changes to the procedure for applying for legal aid and the related practices. Thanks to the electronic legal aid application, it is possible to centralise the processing of legal aid decisions to certain legal aid offices agreed upon in performance negotiations. The term of the rapporteur ends on 30 June 2018.

The smaller number of legal aid offices has more and more often led to situations where the office is disqualified from handling a case, and this will happen ever more often in future. Journeys to other legal aid offices with qualified attorneys have become longer and longer. At the same time, the number of private attorneys is assessed to be decreasing in the sparsely-populated areas. In situations with disqualification problems, the primary solution is to provide legal aid as a remote service.

Legal counselling has been developed into a more customer-oriented service that is easier to make use of. Legal advice may be asked for at a legal aid office anonymously through an electronic chat service. A meeting or a telephone appointment with a legal aid office may also be booked online. Moreover, the staff of a legal aid office may be contacted through a remote connection from a home computer or a joint service point or through a mobile device. On 1 July 2016, the Ministry of Justice appointed a follow-up project for the further development of remote services. The objective is to develop and increase the use of remote services and to make remote services a part of the daily activities of legal aid offices. The project will run until 31 December 2018.

## Procedures

The e-services of legal aid offices have been made more extensive by creating an electronic appointment system. Remote services will be used more extensively especially in situations where a legal aid office is disqualified from handling a case and where the realisation of the linguistic rights of a client so require. If a legal aid office cannot provide service in the mother tongue of the client or cannot accept a commission due to disqualification, the client may be provided legal aid as remote service from another legal aid office or possibly from a joint service point. The electronic appointment system and the remote services make the customer service more effective and flexible.

## Competence and personnel

In addition to exclusion from the proceedings, there is also a specific procedure in place to be applied in the supervision and direction of the attorneys. The courts monitor the appropriateness of the procedure also by way of active process management. As the fees of the public legal aid attorneys are paid from state funds, it is particularly justified to evaluate the quality of their work. It is possible, by virtue of the effective legislation, to reduce the attorney's fee or even to leave it altogether undetermined, if the quality of the work has not met the set requirements. The courts shall, actively and justifiably, use this opportunity to make sure that the attorneys' work is of high quality. When it comes to the attorneys' fees, a possibility to

determine fixed fees for simple cases will be examined. The level of fees must be kept high enough in all kinds of matters to ensure that skilled attorneys will continue to accept legal aid cases. High-quality work by the attorneys helps to reduce costs.

## **Fees**

The legal aid fee has been EUR 70 (1 EUR = 1.0751 USD / 20 April 2017) since 2008, and the last time the income limits for deductibles within legal aid were adjusted was also in 2008. In 2016, in 72 per cent of the legal aid cases handled by the legal aid offices the client received legal aid for free, in 22 per cent against a deductible, and in only 6 per cent of cases the client paid a full compensation. The aim is to cover a larger portion of legal aid costs with payments from the clients. This requires that the system of fees and compensations be reviewed as a whole and possibly tied to the index fluctuations. In addition, attention shall be paid to the fact that the billing of the public legal aid attorneys shall fully correspond to the completed work amount and comply with the law. As the purpose of legal aid is to secure the low-income persons' right to legal protection, payments from the clients may only cover a very small portion of the costs.

## **4. COMPREHENSIVE PLAN FOR LEGAL AID**

A Comprehensive Plan for Legal Aid has been drawn up as a continuation for the Programme for the Reform of the Administration of Justice. The plan is divided into three sections: counselling and electronic services, alternative dispute resolution methods, and public legal aid. The plan will consider the current situation, objectives, and necessary procedures concerning each section.

### **Vision for public legal aid**

Every person will receive the necessary aid to solve his or her legal problem at the earliest possible stage, regardless of a poor economic situation. Legal aid is provided in a manner considered expedient from a broader economic perspective.

#### **4.1. Counselling and electronic services**

##### **Current situation**

Authorities, companies and organisations provide a multitude of different free and commercial legal counselling services. A new phenomenon is that lawyer's offices have started providing online services. From a citizen's perspective, the challenge is finding the right service and to assess its quality and reliability.

The judicial system and other authorities provide citizens with organisation-oriented information on their websites. Counselling services are mainly one-way information channels that provide general information. The focus of the service should be shifted to a more individual level and it should be easier for the client to transfer between different services.

One of the strengths of the administrative branch of the Ministry of Justice is the renewed oikeus.fi website, which is well known. However, general advice in everyday legal problems is fragmentary and spread out on a number of different pages.

The online counselling services of the administrative branch do not yet meet their future requirements and expectations. For instance, electronic legal aid and also legal aid services in general are not yet naturally interwoven with the current online counselling services.

Legal aid offices' electronic chat service was introduced on a trial basis on 10 October 2016. The chat service enables people to ask for legal advice anonymously. A total of 38 legal counsellors and legal aid secretaries from different legal aid offices have participated in the trial. More than 150 clients have used the service each week. The number of clients has grown gradually. Experiences have been positive and a decision to continue the trial until 31 December 2017 has been made.

## **Objectives**

All citizens shall have easy access to legal counselling services through various channels. These channels include different forms of online counselling, electronic services, remote services, a telephone service and personal consultations.

The objective regarding online legal counselling is that citizens have easy and fast access to information in accordance with their respective life situations. The information should also be written in a clear language. Citizens may flexibly transfer from general information sources to a more individual approach and electronic services, and also to consultation over the telephone or personal meetings.

## **Procedures**

The objective for the development of legal counselling services is to make them more customer-oriented and to provide legal advice in more diverse manners.

- ✓ The plan will evaluate the clarity and level of customer orientation of the general legal advice provided on the websites suomi.fi, oikeus.fi and oikeusministerio.fi, and determine whether it is necessary to increase the clarity by gathering the information under a single service (with regard to the KaPa project<sup>3</sup>).
- ✓ The need for a structured and individual online service (e.g. rechtwijzer.nl) will be assessed in collaboration with the social welfare authorities.
- ✓ A legal advice telephone consultation system, through which the client can make a request for contact by a public legal aid attorney, has been created.

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<sup>3</sup>The Programme for the Development of the National Architecture for Digital Services. The goal of the programme is to create a National Architecture for Digital Services that includes the following elements: National Data Exchange Layer, Shared Service Views (for citizens, companies and authorities), an E-identification Scheme, and Administration of Roles and Authorisations for Organisations and Individuals. The programme is set up by the Ministry of Finance and it will be implemented in 2014–2017. Further information about the programme is available at <http://vm.fi/palveluarkkitehtuuri>.

- ✓ A trial will be carried out to test an online legal aid attorney service, where a public legal aid attorney offers assistance in legal problems e.g. through a chat service.
- ✓ Public Service Info's experiences from providing advice via videoconferencing have been put into practice and the provision of legal advice via videoconferencing has been tested.
- ✓ The possibilities to develop the legal counselling provided by legal aid offices without increasing the occurrence of disqualification will be investigated further.
- ✓ Legal aid offices will participate in the pilot testing of the ASPA project and, should the trial be successful, other legal aid offices may agree with the municipalities to start providing legal advice at municipal service points.

Electronic legal aid services will be taken into wider use and their usability will be improved.

- ✓ The usability of the electronic legal aid application form has been improved.
- ✓ An electronic appointment system for legal aid has been developed.
- ✓ The usability of the portal for electronic legal aid services will be improved and an assessment will be carried out regarding the benefits and disadvantages of combining it with other electronic portals within the judicial administration, e.g. the portal that is included in the plans for the AIPA project.
- ✓ Ways to connect the portal to the Shared Service View of the KaPa project will be considered.
- ✓ The need for creating electronic application forms (e.g. a will, a power of attorney, an agreement on division of property) will be assessed.

## **4.2. Alternative dispute resolution**

### **Current situation**

The Finnish system for alternative dispute resolution, i.e. proceedings before a matter is considered by a court, is a well-established one and consists of boards and tribunals through which citizens have a chance to have their matter considered for free and without court proceedings.

Society already offers lots of different mediation systems, but the related mechanisms are not used to their full potential in early dispute resolution. There is also not yet enough competence in the area of mediation procedures.

### **Objectives**

The existing mediation systems will be considerably strengthened. The objective regarding legal aid is that legal aid attorneys will have a substantially more active role in encouraging amicable settlement compared to the present situation.

The long-term objective is that a mediation process in family matters should be more customer-oriented and the process should be developed cross-sectorally in collaboration between the social welfare services and the judicial administration. The development could be

started by introducing an online service with a structured and individual approach (e.g. online advice and mediation in the style of rechtwijzer.nl) and in connection to the family mediation process.

Consequently, the consumer dispute process requires development in order to make the process more effective and to streamline it in accordance with the needs of the client. Here the collaboration should include the Consumer Disputes Board and other consumer authorities.

## **Procedures**

New ways to increase the number of settlements reached through mediation will be developed and competence in the area of mediation will be increased.

- ✓ Legal aid offices will increase collaboration with local authorities in order to provide clients with smoother legal aid and mediation services.
- ✓ Public legal aid attorneys' possibilities to actively promote dispute resolution through mediation will be assessed.
- ✓ Training in court mediation has been organised for legal aid attorneys and advocates.
- ✓ The possibilities to develop an online mediation service along the lines of the rechtwijzer.nl model in collaboration with the social welfare services will be assessed.
- ✓ The development of the model for family mediation in accordance with the Marriage Act should continue in line with e.g. the Fasper project so that families throughout the country can use it.
- ✓ Clients of the Consumer Disputes Board are provided with access to electronic services with the main focus on the production of advisory services; in 2017, work efficiency will be increased with an electronic case management system.

### **4.3. Public legal aid**

#### **Current situation**

For the most part, the public legal aid system meets the international requirements, but case law has shown that certain issues require clarification.

Contrary to many other countries, in Finland public legal aid is provided by both the State and private lawyer's offices. In international studies, the Finnish system has been regarded as extensive and efficient for the citizens.

The challenge is to guarantee access to public legal aid while the population continues to concentrate in growth centres and while the state finances are becoming more and more limited.

## **Objectives**

Efforts will be made to ensure that legal aid is directed to where it is most needed.

Legal advice and mediation as well as all other legal aid work prevent the escalation of problems.

A growing portion of all legal aid services will be made location-independent by utilising various electronic and remote services. Appointments and case processing in legal aid offices will be accelerated.

The legal aid sector will take an active role in promoting the use of oral preparation in courts as early in the proceedings as possible, hereby promoting a settlement through mediation.

The legal aid office structure will be developed in parallel with other state administration and in accordance with the needs of the clients.

## **Procedures**

Compliance with international obligations will be ensured.

- ✓ The need for a duty system, as well as the potential ways to implement it, and the extra costs incurred for maintaining a duty system will be determined.
- ✓ It will be determined to what degree the decision by the Court of Justice of the European Union requires changes to a legal entity's right to public legal aid.

The regional coverage of legal aid and timely access to it will be ensured. The quality of public legal aid will be monitored and quality assessment will be used to support competence development. Case processing at legal aid offices will be made more effective.

- ✓ The organisational structure of legal aid offices will be defined.
- ✓ The implementation of the propositions by the working group for an appointment system for legal aid offices will be continued.
- ✓ Legal aid offices will increase the use of remote services.
- ✓ Effective and best practices in legal proceedings will be developed in collaboration with the AIPA project, with initial focus on the most common matters.
- ✓ The quality control system will be developed further – the system will be expanded to cover individual attorneys, and feedback will be collected as part of the client process.
- ✓ In the legal aid sector, best practices will be established regarding an individual legal aid attorney's possibilities to promote a settlement in a case as early as possible, also in a court.
- ✓ The reporting system for public legal aid will be improved.

Ways to restrict provision of legal aid without weakening legal protection will be considered. Ways to improve the service quality and efficiency of legal aid attorneys by altering the system of fees and compensations will be evaluated.

- ✓ The possibility to restrict legal aid in certain groups of matters will be considered, e.g. repetitive custody matters, or debt counselling matters in cases where the client already has access to the services of a finance and debt counsellor.
- ✓ Practices for granting legal aid in petty criminal matters will be assessed.
- ✓ The legal aid fees will be reviewed.
- ✓ Certain provisions on legal aid fees will be reviewed, e.g. those concerning partly fixed fees, travel remunerations, fees for post-trial work, eliminating certain unnecessary provisions on fee rounding.
- ✓ The need to amend legislation concerning situations where the quality of the attorney's work has not met the requirements will be considered.