Maurits Barendrecht
Martin Gramatikov
Corry van Zeeland

Legal Advice in Poland: Suggestions from International Practice

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Authors

Prof. Maurits Barendrecht, Hague Institute for the Internationalisation of Law; Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems

Dr. Martin Gramatikov, Hague Institute for the Internationalisation of Law; Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems

Corry van Zeeland, Hague Institute for the Internationalisation of Law; Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems

International experiences

In the following, we provide a general introduction to our three reports on the requested topics. Before addressing each individual question, we report the international trends in delivering "Basic justice care" to the population, focusing on the way legal information and legal advice is currently provided across the world. This analysis is based on:

- The report *Towards Basic Justice Care for Everyone: Challenges and Promising Approaches* that can be downloaded from our website www.hiil.org
- The underlying research projects and publications listed in this report
- The innovations and challenges at our www.innovatingjustice.com website
- The experiences of the members of our network
- The outcome of our April 2012 conference on *Strategies Towards Basic Justice for Everyone* (see the brochure that can be downloaded from our website www.hiil.org)

A. The context for citizen advice: How people solve legal problems

One clear trend in the field of access to justice is a focus on the problems that people experience. Throughout the justice sector, justiciable problems (such as tensions between husband and wife in which divorce is an option) become a starting point for designing and improving services, rather than legal issues (lack of knowledge about a particular legal rule or solution in divorce cases).

Legal needs surveys have been conducted in many countries (not, to our knowledge, in Poland). Similar problems show up in most countries:[1]

Consumer problems (complaints about goods/services purchased)

- Neighbour issues
- Family issues (divorce, domestic violence, inheritance)
- Employment issues (termination)
- Tenure/eviction/property rights
- Accidents
- Access to public services
- Violence (non domestic)
- Debt
- Access to public services (pensions, social security, water, etc.)

The legal needs research shows that when problems are solved, this is mostly done through finding a solution with the other party (agreement, settlement). This happens in around 50% of reported problems. Only a small proportion of problems is adjudicated by a court or another neutral decision making body (usually around 5%). Some countries may have more of a settlement culture than others, but we know of no country where the majority of disputes is solved by adjudication.

Both ways to reach an outcome are strongly related. People negotiate and put pressure on the negotiations by addressing a third party such as a court.

[1] Towards Basic Justice Care for Everyone: Challenges and Innovative Approaches, HiiL Trend Report 2012, (downloadable from http://www.hiil.org/publications/trend-reports) p. 27 ff. lists these publications

Information and advice is a secondary need: people need guidance on how to go through the process of finding a solution.

B. International trends and strategies

In our recent Trend report,[2] we at HiiL identified five strategies for providing 'basic justice care' as most promising and at the front line of innovation. Interestingly, the experts present at the Innovating Justice Forum in April 2012 where these strategies were discussed ranked legal information as the number 1 priority.

This is a short description of the main strategies:

1. Legal Information Targeted on Needs of Disputants:

Research clearly shows that about half of legal problems are solved by communication and negotiation between the parties. Settlement is the rule; a decision by a judge or another adjudicator is exceptional (typically around 5% of problems). Therefore, empowering people to negotiate fair solutions is key. Right now, many people see law as something threatening and complicated. Instead, they should get access to information that helps them to communicate, negotiate and cope with problems.

Legal information is most useful if it is understandable, tailored to the problem at hand and arrives in time. Ideally, it is sufficient to cope with the problem, offers limited options, and is easy to put into practice. When working with the information, people tend to need reassurance from a helpdesk or a support group. A key element is learning about concrete solutions that worked for others. Information about specific remedies that were accepted as fair by others empowers people. It prevents them agreeing to unfair proposals. Their demands will become more realistic.

2. Facilitators and Paralegals Working Towards Fair Solutions

Many people across the world rely on customary justice processes, informal interventions by local leaders, and similar arrangements in neighbourhoods. People may go to a mutual friend or to an uncle to which the other party is likely to listen. Or it could be a priest, a person in the neighbourhood, the police, the mayor, a social worker, a trade union, a consumer organisation, an ombudsman or a local radio station that addresses such issues. These persons will provide advice, but often also contact the other party in order to see whether a settlement is possible. Because of their focus on conciliation and dialogue, such interventions can integrate modern mediation techniques and dispute resolution know-how.

In developed economies, employees of legal expenses insurers and providers of legal aid are observed to work in a similar way. They try to solve the problems by managing the communication and negotiation processes between the parties, rather than writing formal letters with legal positions. Lawyers and judges increasingly use mediation skills, whereas mediators focus more on fair outcomes. Hybrids of the traditional professions – that is the future.[3]

[2] See footnote 1.

[3] **See Basic Justice Care for Everyone, p.108 ff.**

3. Sharing Practices, Evidence Based Protocols

As has been the trend in health care, quality can be assured when information about the best treatments is made available to general practitioners working in a local context. Many disciplines provide knowledge on what works in negotiation and in bargaining about zero sum issues, on mediation techniques and on effectiveness of third party interventions. For domestic violence, global standards of practice are emerging. Within the next decade, this knowledge may develop into evidence based protocols for solving the most frequent justiciable problems.[4]

4. Choice of Third Party Adjudication Processes

If the settlement process through negotiation stalls, people need the option of a third party to decide with them and for them, without the consent of the other party. This is the only known way to guarantee the fairness of outcomes. When a court procedure takes three years and costs a fortune, the option of adjudication is not effective. Availability of legal aid, mediation or lawyers financing claims on a no-win no pay basis does not really change this. A far more effective way to enhance access to justice is to create alternative adjudication mechanisms which the plaintiff can address.

These can be simplified, easy-to-use court procedures (designed for use without a lawyer) or processes before another adjudicator. Many countries have now specialized committees fo consumer disputes, arbitration for labour disputes or informal procedures for family issues at specialised courts. The most effective courts specialise in family issues, land conflicts or other urgent problems. Competition between third party adjudicators gives choice and increases incentives to be really helpful. Monitoring processes and outcomes is necessary to protect the interests of the parties

5. IT Platforms Supporting Negotiation and Litigation

Resolving conflicts is basically a matter of exchanging information. The parties, the people assisting them and adjudicators learn about issues, facts, points of view, underlying needs, possible solutions, proposed norms and reach, eventually, decisions on these issues. This flow of information can be supported by forms and standard documents that ask the right questions.

Websites supporting online negotiation, mediation and adjudication are becoming available. Examples are the eBay Resolution Centre that supports dispute resolution between buyers and vendors, various applications for divorce online and numerous general platforms supporting mediation and arbitration on line.[5] Information submitted by the parties is organised issue by issue. Eventually, judges, arbiters or jury members can log in and get easy access to all information submitted. They can contact the parties, or ask them to come to a hearing, and even give their decision online.

C. Policies that have been tried, but do not work as hoped and expected

[4] See Towards Basic Justice Care for Everyone, p.124 ff.

[5] See Towards Basic Justice Care for Everyone, p.124 ff.

Some access to justice policies have been tried, but did not work as expected:[6]

- Pro bono legal aid (does not reach people who need it)
- Just offering facilitative mediation (because of the so-called 'Submission problem', usually, a party in a conflict is not willing to submit to the procedure the other party proposes)
- Broad subsidies for civil legal aid by lawyers (too expensive)
- Giving courts more money and people (research shows that increasing resources for courts little impact on performance)
- Court reform programs (programs for building courts, IT and reorganizing them are slow to have impact on access)
- Waiting for case law and precedents (this traditional way of inducing change in the justice sector is not likely to have a major impact on the efficiency and accessibility of procedures, judges are unlikely to take decisions which have a major impact on the way their colleagues work).

D. Current provision of information and advice

In most countries, there is no clear leader in the provision of legal information and advice. Legal needs surveys show people obtain it from: family members and friends, people in their network, police, government agencies, legal aid insurers, lawyers, social workers, trade unions, consumer organisations, websites, NGO's and telephone help lines. It can also be integrated in other services, such as insurance, health care or psychological assistance. This is also true for Poland, where legal advice is provided by students, NGOs, government agencies etc.

All of these services have their own business model. For most of the services, providing legal information and advice is not the core business. Overall, the legal needs studies referred to above indicate that none of the professional services tend to have a market share of more than 10-15%.

For specific problems such as divorce, employment, housing problems or advice in dealing with criminal prosecution, the pattern may be clearer. Lawyers, trade unions or NGO's specializing in land rights may have a market share of up to 30%.

E. The economics of giving legal advice: costs

Face to face, tailor made legal advice by lawyers is expensive. Most citizens cannot afford a more than a few hours of it, unless the stakes are very high. So it has to be subsidized by the state (legal aid), by the lawyers themselves (pro bono), by NGO's or by insurance (legal expenses).

The literature indicates that pro bono programmes mostly serve the direct networks of lawyers and public interest litigation (which gives lawyers media exposure). Pro bono is no solution for large scale legal information and advice. Legal expenses insurance is typically a product for the middle class, not for the lower income categories. Usually, it does not cover family problems (divorce) and criminal justice issues.

Specialized legal information and advice centres have been set up in countries such as New Zealand, Australia, the UK, the Netherlands and South Africa . They can be more cost effective. For this they combine a good website with options for e-mail advice, telephone helplines and face to face advice. Personnel is specifically trained for this work and less expensive then lawyers with academic training.

[6] See Towards Basic Justice Care for Everyone, p. 67-72, 78 ff.

As an example, the Dutch countrywide Juridisch Loket (funded by the Dutch Ministry of Security and Justice) in 2011 had 772.000 client contacts (200.000 at the 30 offices, other were telephone or e-mail consultations). On top of this, it had almost 1 million unique visitors to the website, whereas the Loket also works on structural improvements with organisations who cause substantial numbers of problems. Costs were a little over €20 million per year, which is less than €30 per client served with personal advice (and perhaps much less, because the website has substantive costs of its own). Client satisfaction is high.

The UK Citizen's Advice Bureaus during one year assisted 2.1 million people with over 7 million problems (see www.citizensadvice.org). Their website Adviceguide.org.uk received 14.2 million visits in the same year (2010/2011). The CAB's are run by 382 charities, with paid employees and volunteers providing the services. The whole service had an income (and costs) of over £60 million in 2010/2011, of which £50 million from government grants, which is a little less than £30 per client served in person (or even less, taking into account the substantial costs of running the website).

These examples illustrate that there are substantive economies of scale. Costs of developing high quality guidelines and information sheets, and of developing good websites and menus, are high. They can be shared by all CABs in a country.

F. Revenues, funding and business models

Legal information and advice, as any kind of information, is not easy to sell for a price. Newspapers, record companies and websites all over the world are struggling with their business models. Economists stress that information is non-excludable and easy to copy.

Once information is given to one client, other clients can get the music, the newspaper article or the piece of legal information as well. It is also credence good. It is difficult to get an idea about the quality of the information before you get it delivered. Therefore, clients are not willing to pay much for it upfront because of their fear to get information that is not so useful after all.

So legal information is not likely to be supplied in sufficient quality and quantity. It may even be true that clients would be willing to pay a lot for information that really helps them to settle their issues. But they cannot buy this information because nobody wants to invest in the production costs, which can be quite substantial. NGOs also do not invest in legal information sites this on a large scale.

The market for legal information can be seen to adapt to these realities. Legal information and advice is often packaged with other services:

- Lawyers give initial advice, so they can sell assistance in pursuing the case.
- Students give legal information and advice as part of their training and education.
- Legal information and advice is sold as part of a membership of a trade union, a political party, a consumer organisation or an organisation of home owners.
- Legal expenses insurers sell it as part of a package which also includes assistance by lawyers in courts.
- Websites (see www.lawguru.com and www.legalzoom.com for example) have models where people buy documents or get pieces of advice plus a contact with a lawyer who is hoping to sell services. Some information sites are also funded by selling a broad range of insurance policies.
- Publishers of legal information offer access to large databases of laws, decisions of courts, articles by academics and their books. But they do not process this information to make it understandable and more useful for clients, because this would be an effort of which it is

hard to recover the costs. There is some market for legal self-help books, but it is not very thriving, because rules and procedures can be different for each locality.

- Police and government agencies give legal information and advice when they interact with citizens.
- NGOs working in the field of human rights give individual legal advice to groups for which they can easily raise money (victims of obvious injustice, youth, women).
- In the USA, courts are beginning to give legal information and advice to litigants without lawyers. Although this is not yet a general trend, many courts now have developed websites to guide litigants (see http://www.courts.ca.gov/selfhelp.htm for an example from California) But this is at a rather late stage in the process of dispute resolution when litigation is seriously considered or already under way.

These difficulties in finding a good "business model" explain why the market for legal information and advice has no clear leader, is very diverse and seems unable to deliver adequate services for many situations. This is true in particular if:

- People have no funds to pursue the case, or a minor problem, for which they are not willing to spend too much on a lawyer, so the lawyer has no incentive to give them advice as a means to obtain a client.
- They are not member of an organisation offering the relevant type of legal advice.
- They do not belong to the groups targeted by an NGO.
- They are not adequately helped by government agents or websites.

G. Role of government in legal assistance and in legal information in particular

Given this market failure, it is not strange that governments (and NGOs) are asked to supply or to subsidize legal information and advice. In countries such as the UK and in the Netherlands, the government subsidizes these services, which are then supplied by private foundations. Costs tend to be shared between different ministries and agencies (justice, internal affairs, social matters, housing, etc.).

In many countries such as Germany and in the USA, legal advice is basically the prerogative of lawyers admitted to the bar. Economists have shown that this is a barrier to the development of services.[7] In these countries, legal information websites have been started by companies such as www.legalzoom.com, seeing a market for these services, but they often have been challenged in courts by lawyers when they became successful.

A model that is also developing in these countries is that information and advice services are run by lawyers. In Germany, a lawyers hotline is available for asking legal advices from lawyers for €2 per minute. In the US and in France, there are websites where you can ask questions to attorneys on-line and the lawyer can try to provide useful answers.[8] These services can range from very useful for the consumer to being merely a marketing tool for lawyers where they select the cases that are attractive for them.

[7] See, for instance, Christopher Decker & George Yarrow Understanding the economic rationale for legal services regulation, A report for the Legal Services Board, 2010.

[8] See **http://www.lawdepot.com**, **http://www.worldlawdirect.com/**

Government policies in this area are not very sophisticated. We do not know of policy documents which really analysed the markets for legal information and advice. Regulation and subsidies have been developed ad hoc, influenced by lobbying from lawyers and a general understanding on the part of governments that providing information early on can be valuable to citizens and prevent the use of more expensive judicial services.

Setting up a network of Citizen Advice Bureaus and building the necessary forms, Q and A formats and websites is rather expensive for governments. In the Netherlands and in the UK, the yearly costs are more than 1€ per inhabitant per year. The (shrinking) budget for access to justice is tied up in commitments to lawyers (legal aid) and to courts. Lawyers and judges are important constituencies for politicians, so it is difficult to change the regulation or the streams of subsidies.

Towards a state of the art legal information/advice system

In this Section, we give a sketch of a possible strategy, based on what the international trends suggest.

A. A web platform at the core

At the core of the strategy can be development of one or more websites with high quality legal information and advice.

- An increasing proportion of citizens will be able to access this website, or have friends and family members who can help them out.
- Once such a website exists, it can be used by many individual CABs, NGOs, lawyers and other providers of information and advice. Telephone help lines and e-mail advice can be built on this. For them, it leads to huge cost savings, making it far more likely that individualized services by volunteers and professionals can be delivered in a cost effective way.
- If necessary, information from the website can be printed and spread through leaflets.

B. Prioritisation based on demand

Legal information and advice is a huge field. Hundreds, even thousands of different issues can arise. CABs, NGOs and their websites are most effective when they use economies of scale and work demand driven.

So, as a starting point, and as priority, good quality legal information and advice can best be developed for:

- The 10 to 15 most urgent and frequent problems (divorce, eviction, neighbour conflicts, consumer complaints about products or services, termination of employment, social security benefits, being detained, etc.).
- Issues around new legislation that have an effect on large numbers of people. Problems which are not yet adequately covered by existing services. It may be, for instance, that a successful service has already been developed for employment issues or a website giving great support for family issues

Once 80 or 90% of the information and advice needs are covered by good quality standardized information, the remainder of clients can be served by face to face, individualized advice. This can be quite expensive to deliver, however.

C. Research regarding demand and a baseline study

Legal information and advice is a secondary need. What matters to people is that they solve their problems in a fair and effective way. So information and advice have to support this problem solving process and the problems have to be identified.

- A survey of justiciable problems (legal needs) and the costs and quality of access to justice for these problems can be conducted first.
- This will show the frequency and urgency of problems.
- It will also show for which problems the current procedures and outcomes (paths to justice from negotiation to adjudication) are felt to be more or less adequate. This gives a baseline for interventions, and showing progress later on.
- The state of the art measuring methods also allow to assess for which problem categories (say eviction or social security benefits) a lack of adequate information (informational justice) is likely to be a core issue. This helps in setting priorities.
- A possible outcome is that other elements of the system than legal information and advice are inadequate. This may lead to policies to reform (court or ADR) procedures and allow new options for adjudication.
- The data of a baseline study can also empower NGOs and CABs to take a role as guardians of justice. They can stimulate the courts and other providers of services in the justice sector to improve performance.

The baseline study is likely to reveal clear list of priorities in terms of groups of clients in need of information and advice and their most frequent and urgent problems.

D. Terms of reference for information

Legal information and advice for each problem is most useful if it is developed on the basis of what is needed. In order to ensure good quality and effectiveness, it is necessary to formulate clear terms of reference. Legal information is a secondary need, covering a broad range of skills and knowledge. The underlying need is a fair and effective solution of the problem. For this, the following information has to be available:

- Basic description of the problem, including the needs, wishes and fears (interests) involved for both parties,
- The usual issues that have to be addressed,
- Guidelines on how to communicate about the issues with the other party,
- How to negotiate (self or assisted by a mediator),
- A good overview of fair solutions that worked for others (expected outcomes of negotiation or adjudication, in time, money, type of solutions, possible arrangements) and that can be expected as outcomes. This information can sometimes be found in the law, but more often it is knowledge of a more practical kind,
- How to find and maintain a relationship with lawyers and other advisers or experts,

- How to collect the relevant documents,
- How to navigate procedures and to deal with formalities,
- How to conduct a procedure before a court or tribunal.

For the quality of the information, the following terms of reference are relevant:

- Understandable for lay persons,
- Tailored to the problem and the issues (dealing with all the issues and steps that usually come up in, for instance, a divorce),
- Offer limited options (too much choice is confusing),
- Easy to put into practice (supported by forms etc.),
- Back up from a helpdesk or a support group (so that people can check whether they understand the information),
- Referral to additional advice and procedures that can be helpful,
- If best practices are clear (for instance for domestic violence, or for termination of employment) these can be further developed. Evidence base protocols for dealing with these problems, delivering a clear quality standard for solutions and for legal services are valuable as well.

It is costly and time consuming to develop this standardised information. Many legal information and advice sites only give some idea of the issue, and then refer to specialists.

Information about the usual solutions is particularly helpful for clients. It manages their expectations, and also enables them to evaluate whether the other party, their lawyer or a judge proposes a fair and good quality solution to them. This information empowers people when they seek a solution.

E. Funds

High quality legal information and advice as a basis for the services (standardised information, best practices, protocols) is costly to develop. Delivery of tailor made advice is costly as well. A reliable revenue stream from payments by the clients is hard to develop. So funds will have to be secured.

The baseline research enables an estimate of the number of clients to be served. Depending on the average costs of personnel, the availability of volunteers and experiences from abroad, the costs per client served can be estimated. This leads to a budget that will be needed.

F. Tendering and selecting organisations

The list of priorities coming from the baseline study and the terms of reference can be the basis for actually developing the services, or upgrading services already existing.

- The organization(s) developing the website(s) with standardized information can be selected on their capabilities to build interactive websites for the public.
- NGOs or CABs providing more personal services (website interaction, telephone, face to face) can be selected on these capabilities.
- Tendering the services to be subsidised can be part of the process.

G. International cooperation

The problems, the negotiation processes, the procedures before third parties and the solutions are rather similar in every country, although every country has its particular issues as well. This means it is possible to use standardized information and advice practices and protocols from abroad, and adjust them to the Polish needs and situation. Organizations such as Namati (www.namati.org, a network of paralegal programs) and HiiL (www.hiil.org, collecting best practices from across the world and bringing them to databases) can assist in this, but it may also be possible to enter into a joint venture CABs or the Juridisch Loket from the UK or the Netherlands.

H. Quality standards for information and advice

The preferred way of assessing and upholding the quality of services is:

- Using best practices and protocols for solving the most common problems as a benchmark.
- Client satisfaction surveys, asking them specific questions about the quality and the outcome of the process (based on research into what people value most when they seek access to justice).

Economists do not recommend to use selection criteria based on training, education or exclusive allocation of tasks to one professional group.

Peer review and intervision (a method in which colleagues enter into a dialogue about a problem experienced by one of them during his work for clients and learn from each other about possible approaches for these problems) can be an additional way to ensure quality (see below for more details on this).

Specific questions: The role of the NGOs and CABs

In the following, we address the specific issues in the questions asked regarding the role of NGOs and CABs.

NGOs

Do NGOs operate as part of the legal aid system, or do they operate rather independently, individually, subject to their strategy, mission, independent funding?

In the countries where we investigated legal aid (UK, Netherlands, USA, lower income countries such as Azerbaijan, Bangladesh, Egypt, Mali, Rwanda) NGOs tend to be independent foundations. They have their own target groups. In some countries (see below), they are part of the state system, in the sense that they get funding from the government.

The funding requirements have an impact on the way they are organised. Donors generally have their own priorities, inviting NGOs to become part of programs dedicated to human rights, women's rights or rights of a specific disadvantaged group. NGOs do report us that they have difficulties setting their own priorities. In the US, the Legal Services Corporation tends to fund NGOs that have a general legal aid program. There is little incentive in this system to specialize at all.

If they act within the legal aid system, then on what terms - how can they apply, be selected, what criteria and requirements do they have to fulfil, who verifies whether these criteria are met?

The Legal Services Corporation has the following selection criteria:

1. A full understanding of the most pressing needs of the eligible clients in the area to be served.
2. The quality, feasibility, and cost-effectiveness of the legal services delivery.
3. Meeting of all applicable requirements of the LSC Act, regulations, guidelines and instructions.
4. The reputations of principals and key staff.
5. Knowledge of the various components of the legal services delivery system in the State and its willingness to coordinate with the various components as appropriate to assure the availability of a full range of legal services.
6. Capacity to develop and increase non-LSC resources.
7. Capacity to assure continuity in client services and representation of eligible clients with pending matters.
8. Absence of conflicts of interest, institutional or otherwise, with the client community and demonstrates a capacity to protect against such conflicts.

In the Netherlands there are two tiers of legal advice. Juridish Lokets (Legal counters) are the primary providers of legal advice. Juridish lokets are part of the system of state funded legal aid. The overall system is managed by the Dutch Legal Aid Board (Raad voor Rechtsbijstand). Another layer are the Sociaal Raadlieden – with some leeway the structure can be translated as CABs (Citizen's advice bureau). More information on the structure, organisation and functions of the Sociaal Raadlieden is provided below in Appendix 4. It should be noted that the Sociaal Raadlieden have quite significant annual caseload:

Table 1: Annual caseload Sociaal Raadlieden

Year	Contacts with clients	Issues	Ratio contact/issues
2005	480,075	584,867	1,22
2006	427,518	497,846	1,16
2007	397,135	482,936	1,22
2008	404,983	492,887	1,22

In some countries, organisations getting subsidies for legal aid are severely restricted in their activities. In Azerbaijan, we found a practice where legal aid by an NGO is only permitted for internally displaced persons. In the USA, laws restrict organisations subsidised by the Legal Services Corporation to give advice to persons convicted of drug crimes and to certain groups of foreigners. They are also not allowed to participate in lobbying and advocacy (see http://www.lsc.gov/about/regulations-rules/lsc-regulations-cfr-45-part-1600-et-seq for an up to date list of restrictions and conditions, showing how the LSC is micromanaged by politicians).

What is the scope of their activities within the system? In particular, what criteria do they apply to select the beneficiaries of their activities?

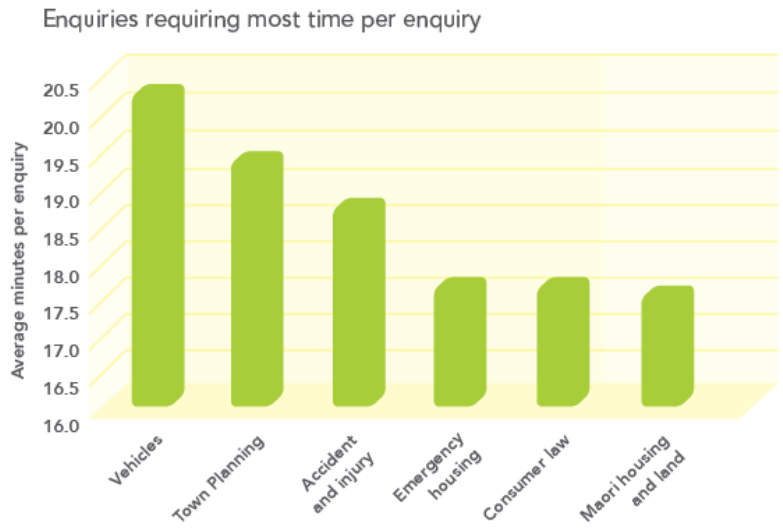
Selection of beneficiaries is depending on the delivery model. Webservices tend to be open to any user. Paid phone lines are open for anyone as well. For over the counter, face to face advice, requiring perhaps 20 minutes, it is probably not worthwhile to check first whether the client is eligible.

For more extensive services, eligibility criteria can include a means test, a test whether a person belongs to the target group or a test whether the client has alternative ways to obtain advice (through his membership of an organisation, insurance, etc.).

How are they funded and by whom? We would be interested in possibly precise data concerning the financial aspects of relevant activities of NGOs.

As shown above, the costs of legal information and legal advice in Western European countries with large scale, government funded programs, are in the range of €30 per person served.

Giving advice and information is mostly a matter of a personal interaction of limited duration. A German advice line run by lawyers (www.anwalt.de) mentions an average of 6 minutes for an advice conversation over the phone. The New Zealand Citizen advice bureaus mention the following statistics in their Annual Report 2010/11.



Citizens Advice Bureau Annual Report 2011
0800 367 222 www.cab.org.nz

So funding is required for the 5 to 30 minutes spent on individual advice, as well as maintaining the organisation and the website plus the underlying databases with standardized information.

As indicated above, the UK and Dutch systems are almost completely funded by government grants. Other possible sources of funding are:

- Use of volunteers to provide certain services
- Donor funding
- Payments by users (either on a voluntary basis, on a fixed fee basis, or on a fee per minute)

Government funding can come from central or local government. In the Netherlands, the major cities often have *Sociale Raadslieden.* They are city employees, sometimes in a separate division of the municipality, sometimes integrated in the entities that provide basic social security (*Bijstand*) to

people without any other source of income. These social workers with legal skills may help people to navigate debt problems, domestic problems and problems related to drug abuse. They are an example of legal advice and legal information providers that are specialised: in the problems encountered by people with little or no income.

Analysis of the market for legal information and advice, and a small scale (not representative) survey conducted by us in developing countries, suggests that there is willingness to pay for good services that really help to solve the problem. At least a considerable proportion of the population will still take the service if they have to pay a contribution to the costs.

Most programs subsidised by governments continue to offer services free of charge, however. They assume that some clients will not take the advice they need, if they have to pay. It may also be a matter of principle ("legal information is a task for the state"), or a matter of NGOs not being allowed to ask money for their services.

What is their role and participation in the system in comparison with other legal aid providers? Are there any specificities of their operation? Are they bound by the same rules, standards, as other providers?

Much depends on the regulation of legal information and advice in the particular country (see above). In some countries (Germany and the US being prominent examples), delivery of legal information and advice by non-lawyers is prohibited. So organisations have to find loopholes in the regulation, or to engage lawyers who are permitted to give advice in the delivery of services.

If information and advice is effective, a large proportion of clients will be able to solve the problem without any other help. But some clients will need help to solve the problem. So providers of legal information and advice may add more value by:

- Contacting the other party on behalf of the client and see whether a negotiated solution is possible.
- Mediating between the parties.
- Help the client to address a third party such as a court or a tribunal.
- Refer a client to a lawyer or other expert belonging to its network.
- Taking action on issues that occur frequently (claims against one particular organisation, for instance), so that the problem is solved "wholesale".

NGOs need to organise their role in these additional services carefully. They are costly to supply and these services are supplied by lawyers and other organisations, which may see the NGO as a competitor instead of a partner.

CABs

Is citizen advice defined? Is it different to legal advice? If so, how is it different, what is the relation in between the two? Is legal advice included in citizens advice? Are there any types of advice that are not based on law, have no relation to law (or concern legally irrelevant problems) etc.?

In the introduction to this paper we mentioned a number of information and advice needs. Of these needs, some could be called legal, others non-legal, and both types of information are closely related. Because of the monopoly for legal advice in some countries, NGOs have to work around this.

Non-legal information includes:

- Basic description of the problem, including the needs, wishes and fears (interests) involved for both parties (non-legal),
- The usual issues that have to be addressed,
- Guidelines on how to communicate about the issues with the other party,
- How to negotiate (self or assisted by a mediator),
- How to find and maintain a relationship with lawyers and other advisers or experts,
- How to collect the relevant documents.

Information with some legal knowledge integrated:

- A good overview of fair solutions that worked for others (expected outcomes of negotiation or adjudication, in time, money, type of solutions, possible arrangements) and that can be expected as outcomes,
- How to navigate procedures and to deal with formalities,
- How to conduct a procedure before a court or tribunal.

Are CABs part of the primary legal aid/legal aid delivery system (out of court legal advice) or something on the sidelines with different role?

In some countries (Netherlands, UK, New Zealand), CABs have been mainstreamed as a part of the system. The Ministry of Justice subsidizes the CABs, thereby saving costs on legal aid by lawyers which is more expensive. As we indicated above, there may be different and partly overlapping types of services delivered by different types of CABs. *Juridische Loketten* in the Netherlands are funded by the Ministry of Justice, whereas municipalities fund *Bureaus Sociale Raadslieden*.

It is interesting to analyse the provision of legal information and advice as a system, but we do not know of a country where this has been designed as such. The Netherlands and the UK are examples of countries where a country wide system of CAB's has been set up, but they are never exclusive providers of legal information and advice and have an overall market share that is usually not higher than 15% (going up to perhaps 30% for specific cases). Different suppliers of legal information and advice have different motives to enter the "market" and to cater to different types of demand. City governments may find that people with bottom level incomes have and cause many social problems, which lead to costs for the municipality and to neighbours and family members needing help themselves. So they have social workers, who also have to go into the legal issues. But in some cities, student legal aid clinics or local NGOs or the police or a law firm specialised in legal aid cases may already cater to these needs, so only one social worker specialises in referral and managing the remaining legal problems. The city government may have analysed the need for legal information and advice in a systematic way once, and then allocated a few funds to it, or it may just have taken ad hoc decision on this.

The situation is not unlike the one in the market for private law firms. Depending on demand, their own skills and competition, they specialise, open new branches in different cities, attract more lawyers and reach out to new types of clients. This is also what the different branches and levels of central and local government do.

What is the status of CAB - are they NGOs or public institutions (acting for instance within the local government), how are they created and by whom, how are they funded and by whom, are they independent or subordinate to some institutions, what institutions?

As explained above, the resulting 'system' is a broad variety of arrangements. This can depend on tax regimes, regulatory issues and subsidy options from governments and donors. The legal status does not really changes what CABs actually do.

In the Netherlands the Juridisch Loket is a government structure, in UK CABs are NGOs. In Italy, lawfirms have been opening shops on the high street.

NGOs and CABs

Are NGOs and CABs required to report on their activities (including but not limited to spending public funds)? What are the obligatory elements of these reports? Are these reports publicly available?

Government agencies or the NGOs themselves tend to have annual reports on their websites. These list the numbers of clients served, budget and funding. Transparency is increasingly required by donors and funders as a principle of good governance (rather than a legal requirement). Because providers of legal information and advice constantly compete for funds and subsidies, they have good reasons to show to the public how many people they helped and what the effects of their efforts have been. Politicians will not cut subsidies that easily if 10.000s of people benefit from them. If CABs are not transparent about the numbers of people helped and the funds spent, this may be a signal that they are not performing very well.

Who provides legal/citizen advice in NGOs and CABs - what qualifications do these advisors have, whether they are lawyers, paralegals, or something else, how are they trained and supervised?

Paralegals supervised by lawyers is a common model. Some NGOs in developing countries also use trained psychologists as advisers at telephone helplines and mediators. As we discussed in abov, it is advisable to leave it to the NGO which personnel they use for providing the services. They are in the best position to organise this effectively. Quality can be assured by using best practices and protocols, as well as by client satisfaction surveys and other monitoring devices discussed below.

As the variety of legal information and legal advice offerings is so enormous, it is difficult to say anything conclusive about the way this is organised and managed internally. Generally, we see the pattern of:

- having information on websites
- having good protocols for standard cases so people with low levels of education and training can give the advice at the telephone and face to face
- recording problems and advice given
- supervision by managers
- quality control mechanisms as discussed in the other papers
- back up by professional lawyers or other specialists for the more difficult cases

Are there any special tools within the system of legal aid delivery dedicated to NGOs and/or CABs - computer programs, databases that facilitate their operation?

See Section 3 of the introduction to this paper. Smaller operations tend to have models for letters, like a law firm. Bigger ones will have websites and standard practices. This is one of the major reasons why scale is important. The costs of websites and standard practices can then be shared.

Do CABs, besides providing legal / citizens advice, deliver any other services? What kind of services?

The best practice for CABs is to specialize and focus on a number of specific problems, so that they can provide a holistic approach for these services. So some CABs specializing in domestic violence, may also support women or men who need a temporary shelter. Generally, however, they stick to information and advice services.

For debt problems, people will be helped with writing letters to creditors or to move into special proceedings relieving people of debt. For housing problems, there may be standard letters to homeowners about rent and maintenance issues, but some people may need help with actual writing of the letters. For each problem, there are more or less standard approaches available at major CABs in the world that can easily be adapted to Polish situations.

Going beyond giving information and advice (at a cost of around €30) per client and problem served, immediately increases the costs of the services to levels that may become unsustainable. Individual assistance requires many hours or days of work, so CABs have to carefully select the cases in which they provide this.

Who is eligible to receive legal/citizens advice in both NGOs and CABs? What is the basis of clients' eligibility assessment? What requirements do they have to meet to receive this kind of help?

See above about eligibility criteria for NGOs.

What are the main obstacles, if any, concerning efficient operation of NGOs and CABs in the field of legal and citizen advice? Are there any reliable and available data, which could make such identification possible? In particular, should these obstacles be found in legal environment (legislation, administrative procedures etc.), economic context (too little funding, ill-allocated funding etc.) or in more general social factors such as legal awareness of the society?

The main obstacles have been described above. They can be summarised as follows:

- Costs: developing good quality, standardised legal information and advice, that really enables people to solve their most common and urgent problem, is expensive to develop.
- Finding a sustainable business/funding model is very hard, due to the specific economic structure of the market for information and advice.
- Regulation of legal services can be a substantial barrier, in particular when lawyers start legal actions against CABs, or when legislators micromanage what CABs can do.

Monitoring and evaluation of the out of court legal aid/ citizen advice system

What is the scope of the monitoring (check of the operation of the system on an on-going basis) and evaluation (ex-post assessment of the system), i.e., what elements are monitored and evaluated? Are there established definitions for monitoring and evaluation?

As a general rule of thumb the scope and depth of the system of monitoring and evaluation of legal aid is positively correlated to the overall development of the legal aid system in the particular country. Another dimension of the relation is that rigorous monitoring and evaluation can take place only whenever there is a body which is directly responsible for the implementation of the access to justice policies. Examples of such public bodies are the Dutch Legal Aid Board, the Legal Services Commission of England and Wales, the Legal Aid Service of Georgia, the US Legal Services Corporation or the State-guaranteed legal aid services in Lithuania.

An example of the scope and breadth of a monitoring and evaluation system is the annual monitoring report that the Dutch Legal Aid Board prepares and publishes.[9] For 2011 the report covers the following areas:

- Recent developments in the system
- Use of the Rechtwijzer.nl[10] – a web based signpost to justice containing information, guidance, advice and self-help tools for most common legal problems. Everyone can use the rechtwijzer.nl system to explore the possible options for solving the existing legal problem. This wide access to the system of basic legal advice is in correspondence with the operational philosophy of the Juridish Loket which dictates that no means or merit tests should be applied when it comes to legal information and legal advice in the Netherlands.
- Use of Juridish Loket – Juridish Loket is a specific first-line provider of legal advice and referral services
- Use of second-line legal assistance. Second-line legal assistance refers to legal advice and representation provided by professional lawyers. This layer should be distinguished from the first line which is exclusively focused on information, advice and referral and often is provided by non-professional or semi-professional legal staff.
- Unusual developments of second-line legal assistance
- Supply of legal services. This part of the Dutch annual monitoring report refers to the number of lawyers and law firms that can provide legal aid in the Netherlands
- Developments in the field of legal assistance insurance
- Costs of the legal aid system

Similar topics are discussed in significant detail in the Annual reports of Legal Aid South Africa.[11] For instance, the 2009/2010 report among other matters goes over:

- Delivery statistics

[9] See S.L. Peters, M. van Gammeren-Zoetewij & L. Combrink-Kuiters, Monitoring Gesubsideerde Rechtsbijstand 2011, Raad voor Rechtsbijstand, Wolf Legal Publishers, Nijmegen
[10] See http://www.rechtwijzer.nl
[11] See http://www.legal-aid.co.za/index.php/Annual-reports.html

- Performance of Legal Aid South Africa
- Corporate government arrangements
- Statements of financial position and financial performance of Legal Aid South Africa
- Human resources etc.

The examples above show how authorities that are responsible for the implementation of policies in the field of legal aid monitor and assess the extent to which these policies have been successfully implemented. Monitoring and evaluation of legal aid can also be performed from the demand side. Looking at people's needs and their experiences with various processes and procedures shows the actual need for legal information and legal services.

TISCO and HiiL have developed and pilot tested a methodology which measures the costs and quality of access to justice. In order to do so the methodology collects perceptions and attitudes from people who followed certain process or combination of processes in an attempt to solve their legal problem. These processes are known in the methodology as "paths to justice" and make the central unit of analysis of the methodology. This means that the methodology mostly answers questions about particular paths to justice. Examples of such questions are:

- How much people spend on a divorce path to justice?
- How much time and other opportunity costs are wasted according to the users of justice on a path to justice which provides redress for personal injury?
- Was the employment litigation/arbitration/mediation/negotiation procedurally just?
- To what extent was the neutral person (third party neutral in dispute resolution could be a judge, arbiter, mediator, public agency, respected community figure) in a debt dispute perceived as polite and kind?
- Was the outcome (result) of the path to justice distributive fair – i.e. did it allocate the contested resources fairly?
- Did the outcome restore the monetary and emotional harms suffered by the disputants?
- To what extent the outcome impacted the underlying problem – is it solved, did the outcome come on time, is it enforceable?
- Is it possible for the user of justice to compare the outcome to what others have received in similar situations?
- To what extent the outcome is seen as similar to what others receive for similar circumstances?

Many more tailor-made questions can be addressed with the methodology. Above we listed for the sake of the example some of these questions. Still the concept of path to justice needs clarification. First, a path to justice must be commonly applied justice process, suggesting that it is widely seen as a mean for responding to a particular legal need. Second, it is a process – a set of discrete steps which aim at a common goal. For instance, a path to justice for a victim of personal injury could involve several steps: 1) negotiating with the wrongdoer and/or his or her insurer; 2) using a mediation to obtain a solution; and 3) adjudication of the dispute. Depending on the circumstances, one or more of these steps will make a single path to justice if this is the "commonly applied process" for coping with the problem. The beginning of a path is defined as the moment when the individuals

first take action (i.e. search for information, seek advice, etc.) and the end is operationalized as the moment when an outcome is obtained.

Paths to justices are commonly applied justice processes which provide redress to particular type of problem. The vast arrays of legal problems which urge people to search for justice interfere in the assessment of the paths to justice. Let us think of an example which compares two court procedures – one concerning adjudication of a consumer dispute and another dispute over custody rights. Inevitably the different values, inter-party relationships, complexity and impact on life of the two legal problems will affect how the users of justice perceive the costs and quality of the evaluated processes. Therefore it will be largely irrelevant to compare the two paths, even though the same dispute resolution process is applied. The Methodology for measuring the costs and quality of access to justice (MA2J) offers a different solution – it proposes to study paths to justice which are triggered by similar problems and employ identical process to solve the issue. In this way, individuals who use mediation to solve custody problems will be compared with other people who employ the same procedure to solve identical or similar problem. Examples of paths to justice which have been already studied with the MA2J are: arbitration of consumer disputes in the Netherlands, issuance of identity documents in Bolivia, dismissal litigation in Bulgaria, online and offline divorce mediation, consumer disputes and personal injury in the Netherlands, domestic violence in Bulgaria, and compensation of victims of crime in the Netherlands. The methodology was also applied to a random sample of refugees living in refugee camps on the Thai-Burma border.

If there are so many combinations of paths to justice, the logical question is: on which one to apply the MA2J methodology? It largely depends on the measurement needs. The answer is self-evident if a provider of path/s to justice (i.e. court, arbitration panel, mediation service, school complaint commission etc.) wants to measure its procedures, find out strong and weak points and compare to other options. Different options are possible when a non-provider wants to measure the costs and quality of paths to justice. First, an organisation might be specialized in monitoring certain process and wants to assess how the users perceive its costs and quality. Second, an organisation might want how the legal system responds to the most frequent and pressing legal problems experienced in the society. Legal needs and victimization studies show that in every society, group or community there are certain categories of problems which are more frequent and serious than others. For instance, if domestic violence is a serious and prevalent problem, the MA2J methodology can be applied to assess how the victims perceive the redress procedures.

In practice the study of the selected path to justice takes place trough collection of information from individuals who have already followed the process and received an outcome. Due to practical considerations most often convenience samples of users are studied although if the circumstances allow random samples are preferable. Sample size is another area of concern – larger samples allow deeper analysis and inferences. The rule of thumb which is recommended by the authors of MA2J is to collect data from at least 30 users of path to justice.

MA2J uses three criteria to map the experiences of the users of justice: 1) costs of justice; 2) quality of the procedure and 3) quality of the outcome.[12]

To what extent do monitoring and evaluation investigate and assess the quality of legal advice (please bear in mind that quality control is the subject of the separate paper)?

The overview of monitoring and evaluation schemes does not focus specifically on legal advice and legal information. Relatively few legal aid systems make difference between primary and secondary legal aid or between provision of legal advice and information and legal representation. In the systems (i.e. England and Wales, the Netherlands, Scotland) in which there is specific difference between the two lines of legal aid the main focus is to separate the expensive secondary legal aid from the relatively inexpensive provision of primary legal. Another specific is that in such systems primary legal aid is not conditioned on merit or means testing. In practice, everyone is entitled to certain level of legal advice and information. In this environment there are little incentives to conduct thorough monitoring and evaluation of the systems for primary legal aid.

If we look in other systems in which legal advice and information are not really separated from legal representation we see that the monitoring and evaluation efforts cover the overall service – information, advice, representation and eventually referral. As it will be noted below in the report, less developed legal systems (if we use availability of primary legal aid as separate level as criteria) have less complicated systems for monitoring and evaluation.

Usually the quality of legal aid and related services is being assessed with combination of quantitative and qualitative approaches and is not part of the annual reporting of the legal aid authorities. See for instance the Dutch annual report focuses predominantly on the quantitative and financial aspects of the state funded legal aid. Similarly the Annual Report of the US Legal Services Corporation does not get into the details of quality.

Similar to the quantitative aspects of every legal aid scheme, the quality of the services delivered is much more likely to be monitored in a sound and rigorous manner if there is a governmental or semi-governmental body responsible for the implementation of the legal aid policies. Such monitoring schemes are conducted through different methodologies and approaches. Quality control also depends on the mode of service delivery. In the US, UK (pilots), Lithuania, Brazil and other countries where some portions of the legal aid services are delivered through Public defenders offices, the monitoring takes place at the level of each office. Usually the manager of the respective PDO is responsible for the constant monitoring, evaluation and reporting of the quality of the services. Thorough evaluations of the quality of the services of the PDO offices and particularly in comparison with other modes of delivery have been performed in the UK and in Bulgaria.[13] In other countries, which rely completely or partially on the Judicare model,[14] quality control is rather a matter of monitoring and evaluating processes and performance of private lawyers. Such control might be exercised by the authority that appoints legal aid – a judge, police officer or investigator. Control

[12] See Appendix 2 for more detail on HiiL's Methodology for measuring the costs and quality of access to justice

[13] See Lee Bridges and others, 'Evaluation of the Public Defender Service in England and Wales' (2007) <http://www.law.cf.ac.uk/research/pubs/repository/1622.pdf> and Martin Gramatikov, *Activity Report of the Bureau for Legal Aid in Veliko Tarnovo* (Open Society Institute - Sofia, 2005)

[14] Judicare refers to a legal aid system in which lawyers in private practice or law firms are paid for provision for legal services in accordance with a fee tariff set up by a public authority or professional organisation. Lawyers and law firms can render services to both paid and legal aid clients.

might be also exercised by the beneficiary, by a funding authority or by a professional organisation of lawyers. In practice, such arrangements for monitoring and evaluation are rarely effective mechanism to assure high quality of legal aid. In summary, each system has to adapt its monitoring and evaluation mechanism in accordance to its specific arrangements. Different modes of monitoring and evaluation of the quality of legal advice will be discussed in a separate paper dedicated to quality (see below).

To what extent do monitoring and evaluation investigate and assess the efficiency of the system from the financial point of view? How is this efficiency defined?

There is no uniform definition of efficiency in the legal aid world. Similarly, there is no consensus on what effectiveness means. Most economists define the former as "level of achievement of the goals of a specific policy" and the latter as "achievement of most results for minimum resources". In that respect, the standard notion of efficiency might be seen as the scope of legal services which will effectively satisfy the legal needs of the served constituencies. Apparently, such an approach to legal aid and the broader access to justice is not particularly sound. It assumes that there is some finite and amenable to quantification level of demand. Furthermore, the efficiency might be sought in different alternatives which at various levels of inputs satisfy the demand. Obviously, such an approach is not applicable to access to justice where the demand is not stable across time, types of problems, groups of users etc.

Another approach to effectiveness is to think of the legal services in terms of the outcomes they delivered to particular beneficiaries, groups of beneficiaries or the whole society. An example of such an approach might be an estimation of whether legal aid and privately paid lawyers achieve equal levels of outcomes. The challenges and main methodological hurdles of such approaches are the immense difficulties to compare outcomes after controlling for a multitude of variables which affect the outcome besides the quality of legal advice or legal assistance. Because of these difficulties, estimation of effectiveness from comparisons of the outcomes achieved with different means of legal aid has been rarely used.

Some legal aid services use as an evaluation criteria the average cost per case or legal aid budget per capita. The Council of Europe Commission for the Efficiency of Justice (CEPEJ) estimates the latter indicator for the Council of Europe member states. It should be noted, however, that legal aid budgets in absolute or per capita terms is not an appropriate indicator of the efficiency of the legal aid system. Measures which bring together the supply and demand of legal services are better suited to draw a picture of the systems' effectiveness. Again, the Measuring access to justice methodology discussed above is a good starting point to assess the extent to which a legal system responds to the needs of its users.

It is more common for legal aid authorities to seek for compliance with accountancy standards and principles rather than with efficiency and effectiveness. An example is the 2011 Annual report of the US Legal Services Corporation in which Independent Auditors' Report is made explicit reference to the accepted auditing standards in the country.

What tools are used for monitoring (i.e. documentation analysis, surveys)? Are these tools available? (If so, please, attach or provide source where we can obtain it).

Different tools are available for monitoring and evaluation:

- Survey research – appropriate to assess opinions, perceptions and experiences of different populations. Two examples of the application of survey research are the justiciable events research stream[15] and the Measuring Access to Justice methodology.[16] The former approach has also been used in the World Bank's Justice for the Poor project.[17] Another example of the use of survey research is in the area of impact evaluation where the effects of legal aid interventions are assessed using before-and-after and differences-in-differences methods.[18] In the field of criminal law, the most popular and wide-spread methodology are the victimisation studies that follow unified research tools and modes of data collection.[19] Another example of study of dimensions of access to justice is the concept of subjective legal empowerment.[20]
- Mystery (model) client studies[21] – mystery (model) clients are trained persons who visit legal aid providers and behave like real clients with real questions. Consequently the mystery clients assess different dimensions of the services provided by the providers – correctness, time, personal treatment, accessibility etc.
- Peer-review – this method is used to evaluate the deeper qualitative aspects of legal aid. Peers are usually professionals who are peers to those whose services are being evaluated. Peer review evaluation is contingent on the availability of well structured and maintained case files. Reviewers look at the case files but for the sake of completeness might interview the provider, the client as well as other parties in the

[15] See Hazel G. Genn and Sarah Beinart, *Paths to justice : what people do and think about going to law* (Hart Pub. 1999) Martin Gramatikov, 'Multiple Justicable Problems in Bulgaria' [SSRN] SSRN eLibrary. Justiciable events methodology refers to a quantitative research approach in which legal needs are studied through asking respondents about events in their life which might have legal consequences. Thus people are not asked about "legal problems" but about events that they can recognise easily. Examples of justiciable events are: consumer problems, debt, employment disputes, neighbourhoud disputes, family disputes etc. It is important that the definition of justiciable events should be limited in two dimensions – only serious and difficult to resolve problems are includede in the research. Once a respondent reports experience with a justiciable event for a given period of time (in different studies varying between 3 to 5 years) there are questions about the development of the problem, sources of advice and representation, satisfaction with legal services, barriers to justice, impact of the problem on health and life etc.

[16] See http://www.measuringaccesstojustice.com and Martin Gramatikov and others, *A Handbook for Measuring the Costs and Quality of Access to Justice* (Maklu 2010)

[17] See http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTLAWJUSTICE/EXTJUSFORPOOR/0,,menuPK:3282947~pagePK:149018~piPK:149093~theSitePK:3282787,00.html

[18] James A. Teufel and others, 'Process and Impact Evaluation of a Legal Assistance and Health Care Community Partnership' 10 Health Promotion Practice 378 Soares Yuri Suarez Dillon and others, *The Impact of Improving Access to Justice on Conflict Resolution: Evidence from Peru* (2010)

[19] J. J. M. van Dijk and others, *Criminal victimisation in international perspective : key findings from the 2004-2005 ICVS and EU ICS* (Boom Juridische Uitgevers : Wetenschappelijk Onderzoek-en Documentatiecentrum 2007)

[20] Martin Gramatikov and Robert B. Porter, 'Yes, I Can: Subjective Legal Empowerment' (18) Georgetown Journal on Poverty Law & Policy 169

[21] Richard Moorhead and Avrom Sherr, *An Anatomy of Access: Evaluating Entry, Initial Advice and Signposting using model clients* (2003)

case. As this is a resource consuming method normally only a sample of the cases of particular provider are randomly selected for review. An example of application of the peer review method is the project of the Dutch Legal Aid Board to evaluate the quality of publicly funded legal advice in cases of compulsory treatment in mental health institutions.

- Processing of official statistics – in countries with well developed and functioning institutional frameworks of legal aid, monitoring is mostly based on processing of statistical data which is collected by management information systems. Netherlands and UK are two examples of sophisticated use of statistical data for monitoring of the overall system. Regular data is provided (see ibid) on the number of clients, number of cases, outcomes of cases etc. Countries with relatively recent developments such as Bulgaria, Georgia and Moldova also show how the legal aid authorities use statistical data to monitor and manage the legal aid system.
- Country-level indicators – some assessment schemes provide country-level data. For instance, the Council of Europe provides bi-annual data on number of lawyer participating in legal aid schemes, number of clients, amounts of legal aid budgets etc.[22] The World Justice Project's Rule of Law index[23] contains data from various sources on access to civil justice.
- In-depth interviews with key actors – quantitative interviews with various stakeholders from the legal aid system are used to explore multitude of views, perceptions and attitudes.[24] Unlike the instruments used in survey research, in-depth interviews are usually more explorative and less structured. The value of in-depth interviews is that they provide wealth of insights which are often omitted in quantitative research.[25]
- Focus groups – similarly to in-depth interviews focus groups are a qualitative method. In focus groups several respondents are asked to share their views on a series of questions. What is important is to observe and identify group dynamics, extreme opinions and likely explanations for such opinions.[26]
- High Trust – this is a project of the Dutch Legal Aid Board. Under the High Trust model lawyers and law firms can provide legal aid while minimizing the administrative requisites. Particularly, the model eases the time and efforts lawyers have to put into proving that the means and merit test requirements of every case have been met. Law firms that have been selected to work under the High Trust regime are asked to provide sample of their cases instead of sending every case for approval.

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[22] See European Commission for the Efficiency of Justice. and Council of Europe., *European judicial systems : edition 2012 (data 2010) : efficiency and quality of justice* (Council of Europe Pub. 2008) and European Commission for the Efficiency of Justice. and Council of Europe., *European judicial systems : edition 2008 (data 2006) : efficiency and quality of justice* (Council of Europe Pub. 2008) and

[23] See http://worldjusticeproject.org/

[24] Annual report of the Georgian legal aid service – on file with the authors.

[25] For examples of using in-depth semi-structured interviews see supra

[26] An example for the set up and organization of focus groups is available in Sue Scott and Caroline Sage, *Gateways to the law.An exploratory study of how non-profit agencies assist clients with legal problems* (Law and Justice Foundation of New South Wales, 2001): "Three focus groups were carried out with staff from community legal centres, community centres and a state-wide telephone information and referral service. Each focus group consisted of approximately twelve participants and lasted for one hour. Prompt questions were used to stimulate discussion. These prompt questions included use of the referral network, use of information and use of the Internet (…). Notes were taken by the researchers and written up."

- Big Case Management – Legal Aid Ontario runs a Big Case Management designed to keep control of the costs of unusually large and expensive criminal trial defences funded by the programme.[27] Cost estimation are the main criteria for routing a case to Big Case Management. In general, all cases in which total fees and disbursements are expected to exceed $20 000 are monitored by the rules of the programme. Extremely costly cases exceeding $75 000 are reviewed by an Exceptions Committee.

What criteria are used in the evaluation?

Different evaluation schemes use different criteria. Some focus on the qualitative aspects of legal aid, others zoom into the quantitative dimensions. Survey approaches such as the Measuring Access to Justice methodology and the "justiciable events"[28] methodologies study the discrepancies between the supply and demand of legal services. For instance, the justiciable events approach identifies gaps between legal needs in everyday life and the services which people use to solve their problems. The Measuring Access to Justice methodology assesses how people experience the costs and quality of the available paths to justice.

Other methodologies such as the Subjective legal empowerment or the assessment of trust in legal institution study internal perceptions and observations of users of justice. Subjective legal empowerment is a method for assessing the level of legal empowerment through evaluating persons' confidence in the ability to solve problems that might have legal implication. Research from social-psychology convincingly shows that people who believe more in their abilities to cope with problems actually achieve more results. In practice, the method is applied trough asking randomly selected samples of respondents a battery of questions that assess confidence in own abilities.[29]

The monitoring and evaluations schemes which are predominantly based on official statistics usually use as evaluation milestones the following criteria:

- Number of calls for service (including number of phone calls to help-desk, call centers and toll-free lines)
- Number of instances of legal aid provided
- Number of clients served
- Number of clients in all households served
- Number of clients from vulnerable groups – i.e. women, juveniles, internally displaced people, migrants, senior citizens, veterans etc.
- Waiting times for accessing legal services
- Types of outcomes of legal services

[27] The goals of the Big Case Management program are to:
- monitor and control case cost, in accordance with the standard of a reasonable client of modest means
- increase predictability of case cost
- provide lawyers with appropriate resources for high quality and effective service delivery
- ensure that the criminal bar continues to accept certificates for big cases
- develop and maintain a framework of accountability and consistency

[28] See explanation of the justiciable events approach ibid at footnote 15

[29] Martin Gramatikov and Robert B. Porter, 'Yes, I Can: Subjective Legal Empowerment' (18) Georgetown Journal on Poverty Law & Policy 169

- Number of referrals. A referral is the signposting of a client to other services – social, medical, tax etc. – that might help for the holistic handling of the underlying problem. Referral means not only providing information about such services but also initiation of such contact.
- Number of complaints against providers of legal services
- Number of public awareness campaigns conducted or materials prepared and disseminated

The UK Legal Services Commission uses a complex system of Key performance indicators. [30] The indicators assess the overall performance of the legal aid system. Below are examples of these KPIs:

- % of Police Station Duty calls accepted within 30 minutes
- % of provision of services of court duty solicitors
- Absolute budget spent in under spent areas
- % of eligible population living within 45 minutes on public transport of a provider of legal aid in family law casesfamily legal aid
- % of providers in specific area (civil, family or criminal) with valid peer review rating
- % of providers with risk peer review rating who receive positive intervention (training, couching etc.)
- Absolute monetary amount of accounts payable due to providers of legal aid services

Legal Aid South Africa uses broad framework of indicators to gauge organisational performance in several dimensions **Overall performance, Executive authority accountability, Judicial Centers performance monitor, Client community, Financial sustainability, Business processes, Employee and organisational capacity.**[31] The indicators gauge how the Legal Aid South Africa – country's legal aid authority – achieves its statutory goals and objectives. Below as a way of example are a few indicators from the first three dimensions:

- Client community
- Financial sustainability
- Business processes
- Employee and organisational capacity
- Statutory deadlines
- PFMA[32] compliance reports
- Quarterly/Annual reports
- Parliamentary briefings
- New legal delivery matters
- new matters
- Judicare – new matters
- Co-operation partners – new matters
- Agency agreements – new matters
- Finalised delivery matters
- Justice centers – finalised matters

[30] See http://www.legalservices.gov.uk/docs/archive/KPIMatrixMARCHperformance.pdf
[31] See ibid at footnote 11
[32] Public Finance Management Act

- Judicare – finalised matters
- Co-operation partners – finalised matters
- Civil – new matters
- Criminal – new matters

Qualitative indicators have been used less frequently as criteria for the evaluation of legal aid schemes. For instance, the 2009 Annual report of the Georgian Legal Aid Service explicates success stories – case studies in which clients benefit tangibly from the provision of legal aid services. For instance, the Report outlines the case of a person who has been indicted for a crime punishable with life imprisonment. The client has been represented by a legal aid lawyer who ultimately achieved an acquittal.

What is the methodology of the evaluation?

The particular methodology depends on the mode of evaluation. In general, there are two main methodological streams – quantitative and qualitative. Quantitative methods attempt to describe numerically particular population or to collect data which can be used to make extrapolations about the population under study. For instance, a legal aid management body might describe the performance of a legal aid system in terms of number of providers, number of instances of primary and secondary legal assistance delivered in a particular time frame, proportion of cases etc. Quantitative research based on samples looks at randomly selected sub-portions of the population and makes inferences about the whole population. For instance, observing a randomly selected sample of users of legal aid is often used to draw generalisations about all users even if they were not studied.

Qualitative methods, on the other hand, are used mostly for understanding than describing particular features of the legal aid system. Interviews, observations, focus groups and other qualitative methods are used to understand the relationships between different properties of the system. For instance, interviews with legal aid clients can indicate the reasons why they feel positive or negative about particular provider of legal aid.

What are the quantitative and qualitative evaluation tools?

- Methodology for measuring the costs and quality of access to justice
- Justiciable events research
- Mystery client
- Peer review
- Impact evaluation
- High Trust[33]
- Big Case Management program
- Management information systems
- Business Intelligence module – Legal Aid South Africa – provides for real-time, online, real time access to management information by managers and practitioners[34]

[33] See http://www.rvr.org/nl/subhome_rbv/high_trust

[34] Business Intelligence is a framework which can be used as a reference and depository for knowledge in the form of business information. For more details see http://www.legal-aid.co.za/

- Justiciable event tools[35]
- Management information system.

Are there written rules, standards or manuals on monitoring and evaluation?

Dutch Legal Aid Board developed rules and procedures for conducting peer-review evaluation in cases of compulsory treatment in mental health institutions.[36] The regulations outline the institutional set up of the peer-review, assessment procedures, relationships between reviewer and reviewed, sanctions for non-compliance, application of the results of the peer-review.

In appendix are also the rules of the Quality Mark administered by the Legal Services Commission of England and Wales and the New Zealand's Legal Services Quality Assurance Regulation.

Who is responsible for monitoring, and who is responsible for evaluation? To what extent it is the task of the a) particular providers of the legal advice (are there any dedicated adequately prepared employees responsible for this task), or b) institution managing the system, and to what extent c) third parties are employed (outsourcing, commissioning of particular tasks)?

Usually it is the national authorities that deal with planning, budgeting, delivery and reporting of legal aid that conduct monitoring and evaluation. For instance, Legal Aid South Africa has established in 2009 a Legal Quality Assurance Unit. The Dutch Legal Aid Board has a research department which annually produces a comprehensive Monitor of the Legal Aid System.[37] In England and Wales, the Legal Services Commission maintains a research arm called Legal Services Research Center. Very often monitoring but also evaluation is conducted by external, independent researchers. It is a common practice for the most developed legal aid authorities to procure research from universities and research centers.[38] For instance, in 2008 the Scottish Legal Aid Board contracted MVA Consultancy, a private company, to conduct research with legal aid practitioners.

If distinction has to be made between monitoring and evaluation, it can be said that evaluation is an integral part of the managerial functions of the national legal aid authorities. There are examples in which evaluation functions are delegated to external political authority. In Bulgaria, according to the 2006 Legal Aid Act the National Legal Aid Bureau submits its annual reports to the National Parliament. In practice, the substantive evaluations are conducted by the bodies which assume full responsibility for the legal aid system.

To what extent are the monitoring and evaluation the results of internal decisions of the institutions providing legal advice or the institution managing the system, and to what extent it is a requirement of external entities (such as supervisory institution, financing institution) or the law?

[35] See ibid at footnote 15

[36] See http://www.rvr.org/binaries/rbv-downloads/peer-review/raadsbesluit-reglement-commissie-peer-review-in-bo.pdf and http://www.rvr.org/binaries/rbv-downloads/peer-review/raadsbesluit-procedure-uitvoering-peer-review-in-b.pdf

[37] See http://www.rvr.org/nl/subhome_rbv/Onderzoeken,Onderzoeken---MGR.html

[38] See for example the list of publications of the England and Wales Legal Services Research Center: http://webarchive.nationalarchives.gov.uk/20100210214359/http://www.lsrc.org.uk/publicationslist.html

As specified above, most examples show that the monitoring and evaluation decisions fall in the domains of the authorities which are explicitly authorized to organize and implement the legal aid system. In most countries with advanced legal aid systems the monitoring requirement stems from the legal framework. However, the quality and depth of the evaluation is directly contingent on the administrative capacity of the authority, the particular political framework, cooperation from stakeholders etc. It should be noted that in the jurisdictions where there is a policy implementation authority it is significantly more likely that a rigorous monitoring and evaluation scheme is in place. When such authorities are tasked with the responsibility to implement the legal aid policies they are also expected to ensure that there is a sound system for monitoring and evaluation. On the other hand, in countries in which the legal aid system is dispersed among various stakeholders (judicial authorities, judges, bar council, ministry of justice etc.), it is less likely to see a functioning system for monitoring and evaluation.

In some cases, monitoring and evaluation studies are conducted upon initiative of the delivery organisations. Independent providers of advice such as UKs Citizens Advice Bureaus implement monitoring and evaluation schemes to gauge their performance, guarantee transparency and attract more funds for their core activities.

When private organisations are granted public funds to provide legal assistance part of the granting contract might be the requirement to disclose performance information. In that sense, granting might be used to promote efficiency and effectiveness through requiring sound monitoring and evaluation of the demand and supply of legal assistance.

In what way are the results of monitoring and evaluation presented and used, inter alia are they public and published, to whom are they delivered, are they discussed? What are the consequences for the provider if its performance is poorly assessed in the process of evaluation?

Basically the results of monitoring and evaluation can be published in two ways. First, there is a practice according to which the national legal aid authorities publish annual reports which usually contain performance statistics. Such reports might be also published by regional authorities – Legal Aid Ontario and Legal Aid New South Wales are two examples.

When monitoring and evaluation has been procured from external providers i.e. universities, research centers, think tanks or similar the results of the evaluation might be published in academic journals or similar outlets.

Above, it was mentioned that in some jurisdictions there is a statutory requirement that the annual reports of the legal aid services are submitted to the national parliament, government, particular ministry or other political institutions. Under the access to information laws such reports are normally accessible to the public.

We are not aware of direct consequences for providers who receive negative evaluation. In the systems in which legal assistance is provided on contractual basis (i.e. UK and USA) a negative performance review might mean that the provider decreases its chances for acquiring new contract. In jurisdictions in which legal services are organized and delivered by the body which oversees the system, the consequences might take the form of organisational change.

Who funds the tasks within monitoring and evaluation? Is it a permanent part of budgets? Do institutions commissioning monitoring and evaluation allocate separate funds for this? Is there a separate budget line? How much money is allocated for monitoring and evaluation, what percentage is allocated for legal advice it takes (we are interested in both figures and in the scale of this spending)?

When monitoring and evaluation is conducted by legal aid authorities it is usually paid as part of the overhead (administrative) budget. It is not possible to provide break down of the resources which are spent on monitoring and evaluation. Relative idea of the share of monitoring and evaluation in the overall overhead budget can be obtained from the number of researchers employed by some legal aid authorities. The Dutch Legal Aid Board employs 3 in-house researchers. About 7-8 researchers are employed by the England and Wales Legal Services Commission. Both organisations procure regularly services from external researchers.

Basing on the comparative analysis performed as well as on the authors' subjective opinion/experience what is the best practice of monitoring and evaluating the out of court legal aid, and what are the objective obstacles to implementing it? In particular, can one imagine taking the best pieces of the existing solutions or is it impossible because such solutions are country-specific?

It is difficult to describe a universally excellent system for monitoring and evaluation. In each country there are variations in the supply and demand for legal service. Also there is a varying level of use and acceptance of the different tools for monitoring and evaluation. Peer review is a good example – in some countries it is well established mechanism for quality control. In others, the legal profession using independence arguments is vehemently opposing the idea that lawyer's work might be substantively controlled.[39] Similarly, the role of non-professional providers of legal advice (paralegals, law clinics) depends on national specifics.

Nevertheless, a functional system for monitoring and evaluation should be based on several milestones:

- Evidence based – monitoring and evaluation is about collecting and assessing factual information about the supply and demand of legal services. Monitoring and evaluation might be based on quantitative and/or qualitative approaches, various combinations thereof but it should build on valid and reliable evidence.
- Triangulation of sources – data might have different sources – providers, clients, policy implementing bodies, transactions etc. It is crucial that the system for monitoring and evaluation covers as many sources as possible. In that way different perspectives are integrated into the process and the risk of overlooking an important aspect is diminished.
- Triangulation of data collection mechanisms – all data collection approaches have strengths and weaknesses. Diversification of data collection methods is a way to manage weaknesses and exploit strengths.

[39] Political developments in legal aid reforms are rarely documented extensively. A good review of the processes in a couple of countries is available in the country reports of the International legal aid group (http://www.ilagnet.org) and in Edwin Rekosh (ed), *Making legal aid a reality: A resource book for policy makers and civil society* (Public Interest Law Institute 2009)

- Transparency – every system for monitoring and evaluation should be fully transparent for all stakeholders in the process. It is important that the system is set in advance so the stakeholders can take into consideration the fact that there are tools aimed to guarantee quality.
- Listen to the client – monitoring and evaluation schemes tend to focus on the supply side. One cannot overestimate the importance of the people who need and/or use legal services. Every monitoring and evaluation scheme should contain elements designed to understand the clients' perspective.
- Continuity and constant strive for excellence – no system for monitoring and evaluation can be written in stone. Legal needs and behaviour of clients and providers are dynamic so a good system will require constant adjustments. Therefore, part of the monitoring and evaluation system is the constant monitoring of the broader environment. Examples from other countries or other sectors (i.e. education, health care, law enforcement etc.) should be constantly followed and studied.

Standards and quality control

First of all, we would like to propose standards of legal aid delivery (with focus on primary legal aid) and afterwards also methods of quality control. Therefore, we look for comparative expertise and comparative analysis including experience from at least three countries and addressing (but not limited to) the following issues/questions.

In what ways is the proper quality of the legal/citizens advice ensured?

Various approaches to ensuring quality of legal advice exist. It should be noted that none of these approaches is a silver bullet which guarantees achievement and sustainment of high quality legal services. Each method has its advantages and disadvantages. Therefore often different methods are used in various combinations to achieve quality. Below is a list of some of the mechanisms most frequently used to promote quality of legal services and particularly quality of legal advice.

- Accessibility assessment – main question: how accessible is legal advice in terms of money, time, distance, ease to rich provider
- Protocols and best practices[40] – main use: make sure that best practices in dealing with problems and responding to needs for justice are identified, acknowledged and used by providers of legal advice
- Client satisfaction – main question: how the clients of the services assess its quality
- Comparison between different types of providers – main question: are there differences between the quality of the services delivered by different types of providers
- Cost-effectiveness studies – main question: what is the ratio between costs and quality of different mechanisms for provision of legal advice

[40] Protocols are standardised forms or instructions for responding to frequently occurring and structured problems.

- Selection of providers – main questions: do criteria for selecting providers of legal advice promote quality
- Training of providers – main question: are providers sufficiently trained to provide high quality legal advice
- Certification of internal mechanisms for ensuring quality – main question: are there quality assurance mechanisms in place
- Outcome measures – main question: do users of legal advice achieve suitable outcomes; how the outcomes of different types of providers compare
- Self assessment – providers assess the quality of their own service delivery according to list of criteria. For instance, the Canadian community legal clinics conduct annual self-assessments to report on: board composition, planning for diversity and success, improvement plan, good governance, fiscal responsibilities, community relationships, human resources etc.[41]

Since 1999 the England and Wales Legal Services Commission administers a system for quality control called "Quality Mark". Law firms that bid to provide publicly funded civil or criminal work have to be certified under the scheme. It is important to notice that the Quality Mark is not an assessment of the quality of advice. It is rather a certification that the particular provider has processes and mechanisms in place to ensure the quality of its service. Along with the Quality Mark, the Legal Services implements other quality control mechanisms such as peer review, mysterious clients etc.

The LSC has also conducted pilot evaluations of the work of the CBAs. Study from 2001 compared the quality of advice of lay advisers and legal professionals.[42] The study found that the quality of lay advisers was often better than that of lawyers. Lay advisers spent more time talking to their clients and looking up the law for solutions. Clients were more satisfied with the work of lay advisers than with the services of lawyers. Particularly, there were differences to the advantage of the lay advisers in the dimensions of listening to clients, explaining, standing up for clients' rights and respectful treatment. In this study, the case files of lay advisers and lawyers were assessed through the peer review method. Again lay advisers outperformed the professional lawyers. They were more likely to receive excellent marks by the evaluators.

Despite the importance of its findings the 2001 study has not been followed by a similar systematic research on the quality of legal assistance delivered by non-legal providers. A comprehensive study of non-legal providers in New South Wales, Australia employs mix of research methods to map the existing legal advice and information services but explicitly does not tackle the question of quality.[43]

In 2007 the Moldovan Parliament voted the Legal Aid Act which took effect in July 2008. Ensuring the quality of the different levels of publicly funded legal assistance is one of the main goals of the act. Quality assurance is central part of the authority of the National Legal Aid Council and its territorial offices. Since 2008 the Moldovan NLAC has developed a system of templates and reports for the two

[41] See http://www.legalaid.on.ca/en/about/downloads/Clinic_Self-Assessment_Tool_V5.pdf
[42] Richard Moorhead and others, *Quality and Cost: Final Report on the Contracting of Civil, Non-Family Advice and Assistance Pilot* (Stationery Office 2001)
[43] See ibid at footnote 26

types of legal assistance (qualified and urgent) regulated in the Legal Aid Act.[44] In order to receive remuneration for each particular case the providers of legal services (individual lawyers, law firms, public defenders offices, legal clinics, NGOs and paralegals) have to submit a case file which reflect the details of the clients, the case as well as the activities of the provider. According to the Legal Aid Act all parameters of the reports have to be controlled by the Territorial offices of NLAC. In practice, due to administrative restrains the review is mostly conducted at the level of formal requirements. Sometimes, however, the staff of the Territorial offices conducts deeper assessment of the quantity and quality of the activities declared in particular case. In addition, the leaders of the Moldovan legal aid system consider other mechanisms for quality control such as peer review.

Similar to the Moldovan system is the quality monitoring mechanism established with the Bulgarian Legal Aid Act from 2006. In theory, legal aid work has to be extensively documented by providers (individual lawyers) in order to allow for thorough assessment of the quality of the services. In real life, problems with the capacity to verify the thousand (for 2010 there were about 23 000 instances of legal aid delivered) restrict the quality control mostly to assessment of formal compliance. Another mechanism for quality assurance in Bulgaria and Moldova are the country registers of providers of legal aid services. It should be noted that that the Moldovan Legal Aid Act foresees specialised NGOs and paralegals as providers of legal advice in non-criminal cases. According to the Moldovan Legal Aid Act a paralegal is a "a person who is respected by the local community, with incomplete legal studies or completed higher education studies, who does not practice as a qualified lawyer and who, after a special training, is qualified to provide primary legal assistance to members of the community from the budget allocated for state guaranteed legal aid, according to a regulation on the status and qualifications of paralegals".[45] Officially, none of the non-legal providers have been contracted yet to deliver legal advice and information. The Soros Foundation – Moldova is piloting a project with community paralegals that provide legal advice and assistance to people from small villages where no legal providers are present.

In order to be eligible to provide publicly funded legal services the providers must be registered in a database of providers. It is the responsibility of the authorities that administer the legal aid system to monitor the applications and make sure that only service providers with excellent credentials are selected. In Bulgaria the register of providers is public and available on internet. Applicants have to submit a form to the National bureau for legal aid to which the local Bar council provides a written decision. There are several negative conditions which are reasons for rejection of an applicant:[46]

- Disciplinary sanction has been imposed
- Criminal proceeding has been commenced against the applicant
- Previous decision of the National legal aid board has found that the applicant provided sub-standard legal aid services.

Yet another layer of quality control is the disciplinary liability of the Bar members. Disciplinary liability is a common construct of the regulation of the legal profession in many countries. Usually no distinction has been made between legal aid and private work. In that sense, disciplinary liability can be considered as additional level of quality control. In practice, however, the mechanism does not

[44] See http://www.cnajgs.md/en.html
[45] Art. 2, Legal Aid Act of Moldova
[46] Art. 33, Legal Aid Act of Bulgaria

always deliver results. Two main reasons might be considered. First, in legal aid cases it is not the beneficiary who pays the bill but the public budget. In the systems where the public interest is not clearly defined and institutionalised we see that individual clients are unlikely to pursue vigorously quality standards through using the disciplinary procedure. Second, there is great variability in professional ethos in different countries. Lawyers from some countries are more likely to engage the disciplinary liability of their peers. In other countries there is strong guild culture according to which complaints against the quality standards of colleagues are not encouraged. Not surprisingly, in the latter type of countries the disciplinary liability is less potent instrument for quality assurance.

In general, first line legal advice in the Netherlands has been provided by the Legal Counters (Juridish Lokets). The performance of the Dutch Legal Counters has been thoroughly analysed in 2009 by the Legal Aid Board research team.[47] For the purposes of the research about 700 randomly selected clients (individuals who sought first line legal services in the past two months) were interviewed about various aspects of their experience with the Legal Counters. Almost half of the interviewed clients report that the legal problems were successfully resolved. Two thirds of them consider that the problem resolution was a direct result of the legal advice. On average the clients' satisfaction with the Legal Counters is 8.18 (on a scale from 1 to 10). For comparison, data from 2007 indicate that then clients' satisfaction was 8.11. Furthermore, the researchers break down the concept of satisfaction into sub-categories. For instance, the highest score (mean) is given to the category "Acting upon agreements made". Lowest in terms of clients' satisfaction is the score for "Distance travelled to reach the counter".

Table 2: Juridish Loket research - users' satisfaction[48]

Service dimension	Number respondents	Satisfaction score	Importance[49]
Acting upon agreements made	317	8.51	10
Manner in which client was treated	658	8.40	7
Time that the provider spent with client	645	8.27	5
Helpfulness	693	8.26	3
Understanding of client's problem	671	8.19	2
Waiting time	358	8.19	9
Accessibility by phone	533	8.18	8
Clarity of advice	678	8.17	4

[47] See http://www.rvr.org/binaries/rbv-library/onderzoeken/mgr/monitor_juridisch_loket_2009.pdf
[48] Source: see ibid
[49] Most important item is indicated with 1

Expertise of the providers	676	8.04	1
Result of the advice	553	7.84	6
Distance to the Juridish Loket	471	7.81	11

Other facet of the quality of the first line legal advice system is the time for responding to calls for service. One of the findings is that about 30% of the e-mail messages were not responded within the standard of 48 hours upon receipt. Nevertheless, clients who contacted the service per e-mail were most satisfied. Ninety two percent of the Legal Counters clients say that they would contact again the service if they had another legal problem. The most frequently cited reason for the particular level of trust are: "I was helped/referred well", "the provider has sufficient legal knowledge", "speed of service" etc.

As mentioned above, the Dutch Legal Aid Board pilots a quality control project entitled High Trust. By the virtue of that project trusted providers of secondary legal aid (advice and representation) are subjected to less intensive quality control. The practice is not used at the level of primary legal aid but has to be taken into consideration due to its positive results. High Trust approaches can be easily ported to ensuring quality of legal advice.

Legal Aid Ontario conducted in 1999 evaluation of three pilot family law staff offices[50] in Toronto, Ottawa and Thunder Bay.[51] This evaluation used two approaches to assess the quality of services. First, the work of the three pilots was compared to the alternative (judicare) model of provision of publicly funded legal services. Second, the quality of services was compared between the three distinct offices. Peer review, clients' satisfaction surveys, and interviews with key informants were the three main methods. Furthermore, cost analysis was performed to assess the cost-benefits ratio of the pilot offices.

Is the quality of legal/citizens advice defined?

In the literature the term "quality of legal/citizens" advice has been defined in different ways. According to some authors "Quality refers to the extent to which lawyers meet relevant standards of competence".[52] Others tend to emphasise that the quality of services is in the eye of the beholder meaning that the most appropriate approach to assess quality is through clients' perceptions and attitudes. Major concern to this approach is that clients might not be sufficiently knowledgeable and skilful to assess service quality. It is recognised that clients are able to assess the process aspects of the work of providers of legal services. For instance, clients recognise and evaluate the amount of time spent with them, attention, respect, cordiality and other aspects of the interaction with the providers of legal services. A third approach to quality emphasises the importance of case outcomes. The assumption of this approach is simple – high quality legal services results in high quality outcomes. It is also recognised that some areas of law are more amenable to using outcomes as indication of service quality.

[50] An Organisational arrangement in which staff lawyers provide legal aid in family law matters
[51] See http://www.legalaid.on.ca/en/publications/downloads/report_FLOevaluation_02aug.pdf
[52] Bridges and others

David Maister[53] elaborates a simple formula of what the quality of legal services is:

Client satisfaction = Perceptions – Expectation

In legislation, quality is rarely defined but rather the legislators elaborate concepts such as effectiveness (not to be confused with economic efficiency and effectiveness), professional standards, professional ethic etc. For instance, Article 188 of the UK Legal Services Act states that lawyers performing legal aid services have "a duty to the court in question to act with independence in the interests of justice". The EU Green paper on legal aid in civil matters frames the quality of legal services as "effective access to appropriately qualified lawyer".[54] Provisions which describe the meaning of quality of legal services can be found in some national laws that regulate the legal profession.

Is the quality control based on the detailed written standards for legal/citizens advice providers?

Systems for quality assurance differ just as the national legal aid systems differ from each other. In most national systems there are no written standards for providers of legal advice. The Legal Services Commission has one of the most developed system for setting up mechanisms and tools for quality assurance. These standards are known as Quality Mark. See below for more detailed discussion

In Canada, Legal Aid Ontario has an office for quality control – Quality Service Office. QSO develops panel standards. Lawyers who represent legal aid clients must belong to the respective panel. There are several panels – criminal, extremely difficult criminal, comlex rate case, family, refugee, duty counsel etc. All new lawyers have to be admitted conditionally to a panel "provided they agree to acquire the necessary experience within a specified time frame, and take approved continuing legal education or be mentored as required by their district area director". Annually all lawyers complete the panel self-report to maintain their standing on the respective panels.[55]

What are those standards, who develops them and what is their contents? Are these available? (If yes please attach or provide sources where we can obtain it).

In the UK quality standards were introduced by the Access to Justice Act from 1999.[56] The act required the Legal Services Commission to develop quality assurance mechanisms for organisations, including Chambers, or individuals providing legal services. First a standard for second-tier services (legal advice and representation) was developed. This standard, together with the later developed standard for secondary legal services is known as Quality Mark. Providers can use the graphical symbol of the Quality Mark only after they pass successfully the certification process. The Quality

[53] David H. Maister, *Managing The Professional Service Firm* (Free Press 1997)
[54] European Commission, 2000, Green paper from the Commission. Legal Aid in Civil Matters: The problems confronting the cross-border litigant. COM (2000) 51 Final.
[55] See http://www.legalaid.on.ca/en/info/annual_selfreport.asp
[56] Access to Justice Act has been repealed by the 2007 Legal Services Act

mark consists of different levels of service and is issued in particular areas of work. Currently there are two different standards: for criminal and civil work.

By their essence the Quality Marks are not performance indicators but a set of management tools for providers of publicly funded legal services – solicitors, barristers, and paralegals. The Quality Mark comprises of various benchmarks designed to ensure that a service is well run and has its own quality control mechanisms that assure service quality. Some of the main areas which a law firm has to meet in order to obtain Quality Mark are:

> **Access to Service:** Planning the service, making others aware of the service and non-discrimination.
>
> (b) **Seamless Service:** Referral to other agencies where appropriate.
>
> **Running the Organisation:** The roles and responsibilities of key staff, and financial management. (d) **People Management:** Equal opportunities for staff; training and development. (e) **Running the Service**: Case management.
>
> **Meeting Clients' Needs:** Providing information to clients, confidentiality, privacy and fair treatment. (g) **Commitment to Quality:** Complaints, other user feedback and maintaining quality procedures.

See Appendix for the complete specification of the UK LSC Quality Mark and New Zealand Legal Services Quality Assurance Regulation.

What tools are used in the quality control process? What exactly is examined in the context of this assessment? How were these tools developed and by whom?

- Accessibility assessment – main question: how accessible is legal advice in terms of money, time, distance, ease to rich provider
- Client satisfaction – main question: how the clients of the services assess its quality
- Comparison between different types of providers – main question: are there differences between the quality of the services delivered by different types of providers
- Cost-effectiveness studies – main question: what is the ratio between costs and quality of different mechanisms for provision of legal advice
- Selection of providers – main questions: do criteria for selecting providers of legal advice promote quality
- Training of providers – main question: are providers sufficiently trained to provide high quality legal advice
- Certification of internal mechanisms for ensuring quality – main question: are there quality assurance mechanisms in place
- Outcome measures – main question: do users of legal advice achieve suitable outcomes; how the outcomes of different types of providers compare.

What are the criteria for assessing the quality of advice? What falls under the proper standard of quality advice?

Criteria	Assessment method	Standard
Best practices	Problem solving protocols and check lists	Providers of legal advice follow well defined instructions in the form of best practices and protocols
Distance of legal aid providers	Survey research	Beneficiaries of legal aid can access legal advice without facing serious inconveniences and costs. Example from Legal Aid Ontario: % of clients who are very satisfied or satisfied with accessibility of the service
Waiting times	Survey research, analysis of information from Management Information systems	Examples from Dutch Legal Counters: all clients e-mails are answered in 48 hours
Time spent on interviewing clients	Survey research, analysis of information from Management Information systems	% of satisfied clients; average time spent to meet and talk to clients
Ease of using the service	Survey research	Examples from Dutch Legal Counters: % of clients who are very satisfied or satisfied with the ease of using the service
Resolution of the problem	Survey research, analysis of information from Management Information systems	Example: HiiL Measuring Access to Justice Methodology
Satisfaction with the quality of the advice	Survey research	Examples from Dutch Legal Counters: % of clients who are very satisfied or satisfied with the quality of the service
Client feedback regarding benefits of service	Survey research	Distribution of responses of clients[57]
In custody clients' feedback on	Survey research	Distribution of responses of in

[57] See http://www.legalaid.on.ca/en/about/downloads/CMT%202011%20Results_summary.pdf

lawyer services		custody clients[58]
Satisfaction with fulfilment of agreements	Survey research	% of satisfied clients
Providers' certification	Document review	Example: New Zealand Legal Services Quality Assurance Regulation
Providers' experience	Document review	Example: New Zealand Legal Services Quality Assurance Regulation
Competencies of providers of legal advice	External evaluation, internal audit, certification schemes	Example: Quality Mark
Level of training of providers of legal advice	External evaluation, internal audit, certification schemes	Example: Quality Mark
Overall quality of legal advice	Mysterious client	Example from UK LSC: % of cases that reach or exceed standard
Quality and quantity of referral	Mysterious client	Example from UK LSC: quantity and quality of referrals; % of cases classified as reaching or exceeding standard
Experience and professional development	Law panel standards	Example from Legal Aid Ontario
Compliance to professional standards	Peer review	Example from UK LSC: % of cases classified as reaching or exceeding standard
Presence of service delivery systems that guarantee quality	Document review, internal and external audit	Example: Quality Mark, New Zealand Legal Services Quality Assurance Regulations
Cost effectiveness	Desk research, analysis of data from the Management Information System, cost breakdown	Example from Canada: comparisons of Time by Tasks summaries and Case summaries across different providers

[58] Ibid

Is the requirement for quality control imposed from outside (e.g., funding agencies, public entities) or it results from the internal standards of the institution's work?

Requirements for quality levels and quality control might stem from legislation but also might be part of organisational practices. In the countries where the legal aid system is managed by authority/ies with clearly defined responsibilities and tasks, it is significantly more likely that quality requirements are elaborated in the practice of these authorities. On the other hand, in the jurisdictions in which the responsibilities for guaranteeing legal aid are scattered among different stakeholders, quality is rather seen as a subset of professional ethics. Most often, the provision of legal aid in such countries is delegated to the members of the private Bar. Because the Bar members are bound by certain ethical standards and norms it is widely believed that standards apply regardless of the type of work and client. There is a general assumption that private lawyers should put the same amount of efforts advising and representing both clients who pay for themselves and clients who are paid for by public accounts. Breach of the ethical rules might engage the disciplinary liability of the individual lawyers and ultimately might be a reason for license revocation.

In practice, however, rules of professional ethics have little impact on the quality of legal aid. It is country specific but we can reasonably assume that in most counties the violations of ethical rules are initiated by clients. There are significant information asymmetries that often make it difficult for the client to recognise, qualify and report such violations. From a micro economic and behavioural perspective it should be noted that legal aid clients are less likely to focus on the quality of legal services because they do not pay for these services from their own pockets. Private clients are much more likely to initiate post hoc assessment of the quality and take steps if there are discrepancies between expected and received services. Nevertheless, information asymmetries render significant difficulties for private clients as well.

Who performs the control of the quality of advice (for example an external organisation, dedicated employees, peer counsellors)?

There are no clear distinctions between the various systems. In general, it could be said that the most advanced systems for quality assurance use mixed approaches to achieve the task. For instance, in the UK the Quality Marks are audited by the Legal Services Commission and the Law Society. Within the Legal Services Commission there is a department responsible for quality control. There is also a semi-autonomous research centers which conducts numerous studies some of which tackle the issue of quality.[59] A third dimension of the quality assurance matrix at the Legal Services Commission is research conducted by research centres which are completely independent from the commission. For instance, the 2007 evaluation of Lee Bridges, Ed Cape and others of the pilot public defenders offices in England and Wales was funded by the Legal Services Commission.[60] These three sources are considered as vital for assuring that the system is thorough, functional and reliable.

Similarly, in the Netherlands, the Legal Aid Board has internal staff who are tasked with quality monitoring and control. In addition there are researchers who conduct empirical research as well as external evaluators such as peers who might be involved in the process of peer review assessments. Procurement of quality related research to external providers is a third pillar in the system.

[59] See http://www.justice.gov.uk/about/lsrc
[60] See ibid at 52

In Canada, Legal Aid Ontario – provincial level policy implementing organisation, has a department which is completely occupied with the quality of the different types of legal services funded with public money.[61] In addition, in Canada each institutional provider such as Community legal clinic maintains a host of templates, protocols and check lists for ensuring quality.

Do different institutions/ providers collaborate in order to exchange information and experience on quality control?

Again, cooperation between different institutions is significantly more likely to happen when there is an authority which assumes responsibility for legal aid and drive other stakeholders into cooperation. A good example is the Dutch Legal Aid board which works with so called *ketenpartners* – partners throughout the complete chain of legal advice and legal representation. It is part of the vision of the Dutch Legal Aid board that legal aid is provided in cooperation with these partners. In the Netherlands such partners are the Bar (Nederlandse Orde van Advocaten), the Judicial council (Raad voor de Rechtspraak), municipalities, social and health care services etc.

For instance, the Dutch Legal Aid Board enters annually into contractual agreements with the Bar in order to ensure: "improvement of service delivery times, focus on clients, new forms of service delivery, and improvement of the cooperation between the partners throughout the legal aid chain".[62] Law firms and individual lawyers, courts and prosecution offices, local and central public authorities, consumer organisations and non-for-profit organisations are also partners in the whole process.

Another interesting example from Netherlands in the field of quality of legal advice is the Viadicte Foundation.[63] Viadicte works with all different partners in the system in order to improve the quality of legal aid services. One of the areas of development is the quality mark scheme which in a nutshell is a certification programme that verifies that law firms comply to certain standards of competence, knowledge and management.

According to Art. 20 (1) of the Bulgarian Legal Aid Act partners to the National Bureau for Legal Aid are the central and local Bars, judicial authorities and various ministries. One practical dimension of this cooperation is that the Bureau can request different types of information from the other partners, including verifying the quality of legal advice.

In the UK the Legal Services Commission also cooperates with various partners such as the Citizen Advice Bureaus, Bar council, the Crown prosecution Service, Lord's Chancellors' Department, Legal Services commission, Institute of Barristers Clerks, Legal Practice Management Association.

Is the system of quality assessment advice subject to verification? Who does it? If both the standards and the control mechanisms are different in relation to different legal/citizen advice providers, please, take it into account.

[61] See http://www.legalaid.on.ca/en/
[62] See http://www.rvr.org/binaries/rbv-library/nova/servicecontract-nova-rvr-2011.pdf
[63] See http://www.viadicte.nl/

Reports on the quality of legal services or excerpts from audits might be submitted to public or private organisations. Media also plays a role in guaranteeing that the quality assessment of publicly funded legal advice will be subjected to public scrutiny. In this way both political and public accountability might be exercised.

What are the practical (pecuniary) consequences of the quantity-quality trade-off? Under tough budget constraints which of the two should be privileged?

In practice, both systems for quality assurance – quantitative and qualitative are complimentary. Relying exclusively on one approach will inevitably yield negative or at least partial results. For instance, simple assessment of performance numbers might be misleading as such numbers will not assess the depth of advice. On the other hand, focusing only on the qualitative side of legal advice will omit the issue of scope and coverage. In difficult times for public budgets the emphasis should be placed on consideration of innovative ways for delivery and quality assurance. Simply cutting qualitative or quantitative mechanisms for quality assurance will likely lead to negative consequences. Four strategies for quality assurance in times of financial austerity might be recommended:

- Place focus on pro-active approaches for assessing quality of legal advice. Think about certification schemes, positive stimulus for services providers, and more actionable information for users of legal advice services.
- Take different approaches to high risk and low risk areas of advice, providers and clients. Focus more efforts on the high risk areas and reward the low risk providers. Show loyal partners that loyalty pays off.
- Consider innovative use of technologies in the process of quality assurance. Regard legal advice and in general legal services as a knowledge-intensive business and think of the countless possibilities that technologies offer to knowledge workers.
- Listen to the clients of legal advice. People can tell good service from bad service. The substance of advice is only one dimension of the overall service. People also value accessible, respectful and user-friendly services.

If we look at the question from a different angle – what are the advantages and disadvantages of quantitative (broad scope) and qualitative (deep scope) provision of legal advice a different perspective emerges:

- Broad scope (quantitative approach) assures that more people with legal needs will receive legal advice and/or legal information.
- When the broad scope (quantitative approach) mode is being used there are less administration costs. Application of means and merit tests can be quite costly; in some instances it is more cost-effective to provide primary legal aid to everyone who turns in than to administer complex testing procedures. This is especially true in countries in which there are limited options for exchange of electronic information between tax, municipal, court and other authorities that have to co-operate in order to put the means and merit tests in practice.
- Main advantage of the deep scope (qualitative approach) is the close focus on particular problem and client. As it was noted above, clients value immensely expertise, time spent with them and personal attention. In that way, qualitative approach is a better way towards more satisfied and empowered clients.

- Specialisation as well as development of innovative solutions is another aspect of the qualitative approach. When providers get deeper in particular area of law or in the problems of a particular population they are better able to develop specific skills and abilities.

Annex 1: Research questions and methodology

See above in the introduction

Annex 2: Dimensions of the Methodology for measuring the costs and quality of access to justice

Costs of paths to justice

The costs of paths to justice are defined as not only the monetary expenses needed for obtaining an outcome, but also the categories of opportunity and intangible costs. Out-of-pocket costs are all monetary outlays made by a user or someone else (i.e. insurer, legal aid fund etc.) in order to reach to the end of the path to justice. Most often, literature on costs of justice talks about legal costs and legal fees. However, we include other out-of-pocket expenses, such as money spent for travel, experts, witnesses, search and collection of information, translation and communication.[64] The opportunity costs are defined as non-monetary costs for which markets exist and whose shadow costs could be estimated. Thus, the opportunity costs are expenses incurred in other units than money, but which could be monetized. The most frequent example of opportunity costs is the personal time expended. On each path to justice, a certain amount of time has to be invested. In the case of low value disputes, the prospect of losing too much time is one of the most significant barriers to justice. The value of time could be approximated through different methods. Other instances of opportunity costs are the countless instances of foregone earnings caused by the pending procedure. The third category of costs on paths to justice is called intangible costs. The main difference between the opportunity costs and the intangible costs is that the latter are much more difficult to assess and quantify. In our methodology, we focus on three instances of intangible costs which are assumed to most intensely impact the accessibility of paths to justice – stress, negative emotions and damage to relationships.

Quality of the procedure

Rather than solely focusing on the outcome, Thibault and Walker[65] introduced the need to examine users' experiences with the procedure. Their research concluded that procedures providing litigants with input into the decision making process were preferential to procedures lacking this opportunity. Subsequently, negative outcomes are more likely to be accepted when fair procedures have been followed. Numerous theoretical and empirical studies support the notion that people do not only

[64] See for further detail in GRAMATIKOV, *A Framework for Measuring the Costs of Access to Justice*.
[65] John Thibaut and Laurens Walker, *Procedural justice: A psychological analysis* (Erlbaum 1975)

look for favourable outcomes, they want to reach these outcomes following fair procedures. Studies suggest that the quality of the procedures has greater influence on the perception of justice than the distributive justice dimension. Moreover, procedural justice is believed to foster law abiding behaviour and compliance with the law.

MA2J defines the quality of the procedure using the concepts of procedural and interpersonal justice. Procedural justice is not a unidimensional construct. Research has confirmed that it includes two general parts: fair decision making and fair interpersonal treatment. Fair decision making consists of several facets – voice (opportunity to participate express concerns), consistency (procedures are applied consistently across people and across time), bias suppression (the decision-maker should be neutral), accuracy (procedures are based on accurate information), correctability (appeal procedures for correcting inaccurate outcomes), representation (procedures allow control at every stage of the process), and ethicality (the procedure implements general ethical and moral standards).

In addition to procedural justice components, MA2J includes the concept of interactional justice when examining the quality of the procedure. People want to be treated with respect and dignity on their paths to justice. Some authors insist that the quality of the interpersonal treatment is more important to the general view of the fairness of the procedure than the decision-making dimension. Interactional justice has been studied in terms of explanations and sensitivity. Klaming and Giesen[66] define interactional justice "as the quality of the interpersonal treatment that people receive when procedures are implemented". Interpersonal treatment consists of two components – interpersonal justice and informational justice. Interpersonal justice is "the degree to which people are treated with politeness, dignity and respect by the authority in question". The concept has been operationalized into several sub-indicators – politeness, dignity, respect and propriety. The second component of interactional justice is informational justice. It refers to the "explanations and justifications provided to people". The substantive content of informational justice is honesty, justification, justification (reasonable), justification (timely) and justification (specific). It has been suggested that the revelation of information and preferences during the procedure facilitates possibilities for integrative bargaining and value creation.

Quality of the outcome

At the end of a path to justice the parties receive certain result – i.e. a decision by a neutral person, an agreement or disagreement between the parties in the dispute, or an end to the path because one of the parties withdraws. Numerous evaluative frameworks could be used to assess the end-result – favourability, fairness, cost-benefit ratio etc. MA2J explores and defines the concept of the quality of the outcome in attempt to answer the question: How the users of justice decide which outcome is of high or low quality?

[66] Laura Klaming and Ivo Giesen, 'Access to Justice: The Quality of the Procedure' <http://ssrn.com/abstract=1091105> accessed 05/12/2008

In order to answer this question, MA2J studies the criteria which are suggested to participate in the formation of the quality of the outcome assessment. Verdonschot et. al.[67] identify eight normative domains which generate indicators of justice – distributive justice, restorative justice, corrective justice, retributive justice, transformative justice, informational justice, legal pragmatism and formal justice. These criteria are grouped into four more general dimensions – distributive justice, restorative justice, functionality and transparency dimensions.

The distributive justice dimension refers to how assets, damages and tasks were divided at the end of a path to justice. At the core of this dimension is the concern for fair allocation of the available resources. People credit qualitative outcomes as those which distribute the disputed value fairly in relation to their needs as well as the needs of the other parties. This view is based on the belief that people are not relentless self-interest seekers and, thus, are not indifferent to the outcomes that others receive. A fair and just outcome will be the one which distributes the contested value using legitimate distribution rule. MA2J operationalizes in its research instrument three types of distributive rules – equity, equality and needs.

Another aspect of the outcome is its restorative effect. In most disputes and legal problems, people suffer some sort of damage. Seeking for compensation award is an important motivator for accessing justice. There are many categories of damages but MA2J distinguishes between the two most distinct categories – pecuniary and non-pecuniary. An outcome which gives the aggrieved party compensation only for its pecuniary and non-pecuniary damages mutatis mutandis is perceived as one of a better quality.

The third dimension of the quality of the outcome is its functionality or, more precisely, the extent to which it delivers value to the user of justice. Central to this construct is the extent to which the outcome solves the problem that causes the legal need, thus forcing the user to step on a path to justice. Ideally, the outcome irons out the issue completely without causing additional damage. Outcomes of high quality should provide a resolution to the problem that does not further aggrieve the relationships with the other party or third persons. Enforceability is another important part of the functionality dimension. An outcome which could be enforced at an affordable cost is of higher quality than one in which the party cannot enforce it, or can only do so at prohibitively high costs. In the end, users value outcomes which make sure that future problems of the same type will not reoccur between other individuals.

Similar to the informational justice dimension of the quality of the procedure, MA2J assumes that the outcome should be predictable and motivated. An outcome could be distributively fair and affect the problem as expected, but still considered mediocre because the users of justice know nothing about its fairness as compared to the outcomes of similar paths to justice, or they did not receive a proper explanation. The methodology calls this dimension of the quality of the outcome transparency.

[67] Jin Ho Verdonschot and others, 'Measuring Access to Justice: The Quality of Outcomes' <http://ssrn.com/abstract=1298917>

Annex 3: Quality Assurance Rules

UK Quality Mark - attached

New Zealand Regulation - attached

Annex 4: Fact Sheet Dutch Cabs (Sociaal Raadslieden)

Sources:

www.sociaalraadslieden.nl;

www.mogroep.nl/categorieen/thema/sociaal-raadsliedenwerk-srw

Interview with mr. Ernst Radius, MOGroep, radius@mogroep.nl

1. **How many CABs are there?**
   There are 70 CABs. 150 out of the 415 Dutch municipalities subsidise a CAB. CABs are present in larger cities, but also in more rural areas. 9 million citizens - 50% of the population – is within the reach of a CAB. 400 professionals (*sociaal raadsman/vrouw)* provide CAB services. However, most of them work part-time. There is no information on the total number of FTE's.

   5% of the CABs are organised as private corporation, often a foundation. Approximately 10% are part of a public service provider, often the municipality. About 85% are part of a local social service organisation. These organisations also offer other services, such as social work, homecare, debt relief services.

2. **How many clients?**
   CABs help 400,000 clients per year. 50% of the clients are from an ethnic minority. The number of clients is reported to decrease but the number of issues CAB clients are experiences is increasing.

   71% of the clients visit a CAB. On average, a visit takes 15-20 minutes.

3. **How many cases?**
   There are 500,000 requests for help. Most common case types are: taxes (40%), social security (20%), consumer issues (11%) and housing issues.

4. **How much does it cost?**
   CAB services are free of charge. There is no information available on the total organisational cost of the CABs.

5. **Do they have any common standards?**
   Professional code. The code contains ethical and working practices, norms and values on:

   - Professionalism, expertise;
   - Relationship between, and behaviour toward CAB professional – client, CAB professional – colleagues, CAB professional – other stakeholders/networks;
   - Confidentiality;
   - Administrative processes (information, files, transparency).

   Job and competency profile. The collective labour agreement contains a job and competency profile for CAB professionals (*sociaal raadsman).* For instance, a CAB professional should have a degree in applied sciences in law. Some CABs work with volunteers, who work under the supervision of a CAB professional.

   There are no other common standards, although locally protocols and guidelines may be present.

6. **What is exactly the role of the umbrella organisation?**
   The CABs are organised in the National Organisation Sociaal Raadslieden (LOSR). The MOGroep, the national branch organisation for welfare and social services, serves as facilitating organisation. MOGroep offers a 'Plus Service Package' to CABs. The services include advocacy, assistance with regard to organisational issues and entrepreneurship, and legal support. In addition, the Plus Package provides services to national and regional networks.

7. **Are there any reports on the movement?**
   http://www.sociaalraadslieden.nl/?ct=tekst&page=downloaden&nav_active=228
   Report 2006, containing data from 53 CABs.
   - 427,846 clients
   - 497,846 issues
   - Information and advice service 42%
   - Practical assistance 24%
   - 1,5 – 2,5% FTE per 100,000 inhabitants

Reports are available upon 2009. Information on recent years is lacking due to the transition of CABs to the MOGroep. According to Mr. Radius, MOGroep is currently setting up a data system.