

Implementation of Directive 2016/1919 in Lithuania

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State-guaranteed legal aid (1)

- *Primary legal aid:*
 - legal information
 - legal advice
 - drafting of the documents to state and municipal institutions (except procedural documents)
 - advice on the out-of-court settlement
 - actions for the amicable settlement
 - drafting of a settlement agreement
- **Providers:** civil servants/employees of the municipality administration or lawyers (professional partnerships of lawyers) or the public agencies with which municipalities have concluded an agreement;
- **Duration:** 1 hour (may be extended);
- A person may apply for primary legal aid **on the same issue only once**;
- Primary legal aid is granted **regardless of persons' property and income**.

State-guaranteed legal aid (2)

- *Secondary legal aid:*
 - drafting of documents
 - defence and representation in court (including the process of execution)
 - representation in the event of preliminary extrajudicial consideration
 - litigation costs
- **Providers:** advocates or in certain cases advocate's assistants;
- **Beneficiaries:** persons whose **property** and **annual income** do not exceed the property and income levels established by the Government of the Republic of Lithuania for the the provision of secondary legal aid or person who have a right to receive secondary legal aid regardless of the property and income (persons receiving social allowances; persons who have severe disability, etc.).

State-guaranteed legal aid (3)

- *Conciliatory mediation*
- Dispute resolution procedure during which a mediator helps the dispute parties to solve their dispute amicably.
- The Service takes a decision on the provision of conciliatory mediation.
- Consents of both parties to the dispute are required.

State-guaranteed legal aid (4)

Criminal cases.

- **General rule.** Secondary legal aid is granted by the Legal aid service according to the application of an applicant.
- **Mandatory defence/representation.** In criminal cases where the physical presence of an advocate is mandatory or where a representative of an aggrieved party is required, a pre-trial investigation officer, prosecutor or the court notifies the Legal aid service that a suspect, accused, convict or the aggrieved party requires an advocate. The Legal aid service selects an advocate, which is appointed by the pre-trial investigation officer, prosecutor or the court.

Amendments to the national legislation (1)

Implementation of Directive 2016/1919.

Amendments to:

- 1) the Law on State-guaranteed Legal Aid;
- 2) the Code of Criminal Procedure.

Amendments to the national legislation (2)

Directive 2016/1919	<i>Status quo</i> The Law on State-guaranteed Legal Aid (A) The Code of Criminal Procedure (B)
<p>Art. 4, part 5: Member States shall ensure that legal aid is granted without undue delay, and <i>at the latest before questioning by the police, by another law enforcement authority or by a judicial authority</i>, or before the investigative or evidence-gathering acts referred to in point (c) of Article 2(1) are carried out.</p>	<p>(A) A decision on the provision of secondary legal aid shall be taken immediately upon a person's application. Where the decision cannot be taken immediately, it shall be taken within <i>5 working days</i> of the receipt of the documents <...>.</p> <p>(B) Defence is mandatory:</p> <ol style="list-style-type: none"> 1) when the suspected or the accused is a minor; 2) when the suspected or the accused is unable to exercise his rights of defence due to physical or mental impairments; 3) when the suspected or the accused does not have the knowledge of the language; 4) where there is a conflict of interests between interests of the suspects or the accused persons, and at least one of them has a lawyer; 5) in cases of crimes for which life imprisonment may be imposed; 6) in cases heard in the absence of the accused; 7) where the suspect or the accused is under arrest; 8) when deciding on extradition or executing of the European Arrest Warrant; 9) in expedited procedure cases. 10) in other cases determined by the Code of Criminal Procedure. <p>2. The pre-trial investigation officer, the prosecutor or the judge have the right to decide that the presence of a lawyer is also necessary in other cases if, in their opinion, the rights and legitimate interests of the suspect or the accused would not be adequately protected without the assistance of the lawyer.</p>

Amendments to the national legislation (3)

Directive 2016/1919	<i>Amendments</i> The Law on State-guaranteed Legal Aid (A) The Code of Criminal Procedure (B)
<p>Art. 4, part 5: Member States shall ensure that legal aid is granted without undue delay, and <i>at the latest before questioning by the police, by another law enforcement authority or by a judicial authority</i>, or before the investigative or evidence-gathering acts referred to in point (c) of Article 2(1) are carried out.</p>	<p>A) A decision on the provision of secondary legal aid shall be taken immediately upon a person's application. Where the decision cannot be taken immediately, it shall be taken within 5 working days of the receipt of documents in civil, administrative and administrative offenses cases and <i>before the procedural action but no later than 5 working days</i> after the receipt of documents in criminal cases <...>.</p> <p>B) Defence is also mandatory when a person is temporarily detained.</p>

Amendments to the national legislation (4)

<p>Directive 2016/1919</p>	<p><i>Status quo</i></p> <p>The Law on State-guaranteed Legal Aid (A) The Code of Criminal Procedure (B)</p>
<p>Art.6, part 2: Member States shall take necessary measures to ensure that suspects, accused persons and requested persons <i>are informed in writing if their request for legal aid is refused in full or in part.</i></p>	<p>(A) The Legal aid service shall immediately give a written notice to the applicant of the decision taken.</p> <p>(B) No information on how the person is notified that a lawyer was appointed in mandatory defence cases.</p>
	<p><i>Amendment</i></p> <p>The Code of Criminal Procedure</p> <p>The suspect, the accused or the sentenced person shall be notified <i>immediately</i> about the appointed lawyer <i>presenting or sending a copy of the decision to appoint a lawyer.</i></p>

Challenges and Future Developments (1)

- Budget;
- Quality;
- Availability/specialization;
- Procedures.

Challenges and Future Developments (2)

TEISIS:

- easier access to legal information and legal aid;
- reduce administrative burden;
- facilitate provision of primary legal aid;
- facilitate application for secondary legal aid, self-assessment tools;
- monitoring.

Thank you for your attention!

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