



Tools and Criteria for Measuring Legal Aid Quality: Guidelines for EU Member States

Tools and Criteria for Measuring Legal Aid Quality: Guidelines for EU Member States

*Developed in the framework of the project:
“Enhancing the Quality of Legal Aid:
General Standards for Different Countries”*

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Glossary of Terms

Legal aid: the provision of legal advice, assistance and representation at the expense of the State on the conditions and in accordance with the procedures established under the national law for persons detained, arrested or imprisoned; for persons suspected or accused of, charged with or convicted of a criminal offence; and for victims and witnesses in the criminal justice process. Legal aid includes legal education, access to legal information and other services provided through alternative dispute resolution mechanisms and restorative justice processes.¹

Legal aid provider: any natural person who has obtained legal education and who is providing legal aid pursuant to national law.²

Legal aid authority: the authority established under the national law for the purpose of managing, coordinating and monitoring the provision of legal aid.³

Bar: an independent and autonomous professional organisation of lawyers responsible for the regulation, organisation, and control of lawyers' activities.

Evaluation: an external and independent assessment of the quality of legal aid through the use of objective criteria and methodology.

Legal aid service provider: the organisation that provides legal aid services, or on behalf of which a legal aid provider works.

¹ Model Law on Legal Aid in Criminal Justice Systems. United Nations. Vienna, 2017: www.unodc.org/documents/justice-and-prison-reform/LegalAid/Model_Law_on_Legal_Aid.pdf

² *Ibid.*

³ *Ibid.*

Legal aid beneficiary/client: any natural person, (*including non-citizens*) who has been granted legal aid after having met the eligibility criteria to receive legal aid pursuant to the national Law, where applicable.⁴

⁴ *Ibid.*

Introduction

I. Towards quality of legal aid

The international community widely recognises that legal aid is an essential element of a functioning criminal justice system that is based on the rule of law, that it is a foundation for the enjoyment of other rights, including the right to a fair trial. Moreover, it is considered as an important safeguard that ensures fundamental fairness and public trust in the criminal justice process. The recent international documents support the view that provision of legal aid is no longer regarded as a charity to indigent persons but as an obligation of the community as a whole.

The requirement that legal aid should be not only free but also effective started appearing in 1990s. For example, Basic Principles on the Role of Lawyers, adopted in 1990, refers to effective legal assistance, without payment for persons lacking sufficient means to pay for such services. This document also stresses the importance of lawyers periodic training, respect of client's interest, and independence of the lawyer. However, no further explanation was given as to understanding what is meant under those general notions.

The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted in 2012 was the first international instrument entirely dedicated to the right to legal aid. The document set global standards for legal aid and urged States to establish, strengthen and expand legal aid "to the maximum extent possible". Importantly, the document affirms that legal aid should be accessible, effective, sustainable and credible. As to competence and accountability of legal aid

providers (hereinafter referred to as providers), the document required that States should put in place mechanisms to ensure that all providers possess education, training, skills and experience that are commensurate with the nature of their work, including the gravity of the offenses, dealt with, and the rights and needs of women, children and groups with special needs.

The guidelines focus *inter alia* on quality assurance and evaluation of legal aid. The document recommends that Member States implement the following quality assurance measures for legal aid:

- Criteria for accreditation of providers;
- Quality standards for providers;
- Adequate training and supervision by qualified lawyers;
- Monitoring and evaluation mechanisms to assess and continuously enhance the quality of the services provided by lawyers and paralegals;
- Mechanisms to track, monitor and evaluate legal aid to continually strive to improve the provision of legal aid.⁵

In the European context, the documents of the Council of Europe and the European Union are to be mentioned. Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), establishing right to fair trial, recognised the right of anyone charged with a criminal offence to defend himself in person or through legal assistance of his/her own choosing or, if he/she does not have sufficient means to pay for legal aid, to be given it free when the interests of justice

⁵ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted by the General Assembly in December 2012 in Resolution 67/187.

so require. This right was further elaborated by the European Court of Human Rights which also drew some guiding standards for the quality of legal aid. In accordance with its case law, mere appointment of a lawyer is not enough to fulfil the State's obligation to provide effective legal aid – from the lawyer's side, at least some performance of legal aid lawyers of basic quality is needed; from the side of legal aid administering institutions, it should ensure sufficient time and facilities for an officially appointed lawyer to prepare for a case and should rectify the situation if the appointed lawyer is manifestly failing to perform its duties.

The EU instruments more clearly refer to legal aid since 2000 when Article 47 of the Charter of Fundamental Rights directly reaffirmed the right to free legal aid stating that legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice. While the right to legal aid was consistently repeated in other EU instruments, the quality of legal aid did not come so much into focus until 2013 when the Commission of the EU adopted the Recommendation on the right to legal aid for suspects or accused persons in criminal proceedings. This document presented several very important recommendations as to the effectiveness and quality of legal aid.

The new EU directive 2016/1919 on legal aid should be regarded as the most important document in the EU regulating the right to legal aid and setting its quality standards. Its Article 7 (Quality of legal aid services and training) is specifically dedicated to the quality of legal aid. It requires the States to take necessary measures, including with regard to funding, to ensure that there is an effective legal aid system that is of an adequate quality; and that legal aid services are of a quality adequate to safeguard the fairness of the proceedings with due respect for the independence of the legal profession. This directive also highlights the im-

portance of adequate training of the staff involved in the decision-making on legal aid. However, the Directive does not provide more detailed quality assurance standards for legal aid, i.e. how and in what ways the quality of legal aid should be ensured in EU Member States.

II. Basic information about the project

Responding to the need for more detailed quality standards and guidelines on legal aid in the Member States of the European Union, the team of researchers and legal aid experts decided to join their efforts through a project entitled “Enhancing the Quality of Legal Aid: General Standards for Different Countries (QUAL-AID)”.

The project “Enhancing the Quality of Legal Aid: General Standards for Different Countries (QUAL-AID)” was developed and implemented in 2016–2018 by partners from three EU Member States: Lithuania, Germany and the Netherlands. The project was led by the Law Institute of Lithuania with the main researchers being Dr. *Simonas Nikartas*, Dr. *Agne Limante* and *Laurynas Totoraitis*. The project benefitted from EU co-funding which was provided under the Justice Programme (JUST/2015/JACC/AG/PROC/8632).

Besides the Law Institute of Lithuania, the Lithuanian team also included Lithuanian State-Guaranteed Legal Aid Service, represented by Dr. *Anželika Banevičienė* and *Diana Jarmalė*, and Lithuanian Bar Association, represented by Dr. *Laurynas Biekša*. The German partner was the Goethe University of Frankfurt under the principle investigation of Prof. Dr. *Christoph Burchard* (LL.M. NYU) and Prof. Dr. *Matthias Jahn* (judge at the Frankfurt Higher Regional Court) with their researcher

being *Sarah Zink*. The National Legal Aid Board of the Netherlands, an institution entrusted with all matters of administration of legal aid, was a team member from the Netherlands, represented by *Herman Schilperoort*, Dr. *Susanne Peters* and Dr. *Lia Combrink-Kuiters*.

The project was developed in the light of the recent efforts of the international community to take steps towards improving legal aid quality and, in the EU context, taking into account the new Directive (EU) 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings⁶. Project partners sought to contribute to enhancing the quality of legal aid services in criminal proceedings within the EU by developing practice standards for legal aid provision, enhancement of its quality and for supervision. In this regard, the project aimed at assisting Member States in proper implementation of the Directive 2016/1919. As an additional target, the project partners sought to raise the capacity of legal aid policy makers, administrators and providers in ensuring high quality legal aid.

The project was structured in three working packages:

1. Firstly, under working package I, the project team performed an assessment of the existing legal frameworks and practices aimed at ensuring high quality legal aid in criminal proceedings in their home countries. This consisted of desk research, survey of beneficiaries, interviews with stakeholders and complaint analysis. In addition, three study visits were organised for mutual learning and information exchange. Under this working package an international conference was organised in November

2017 in Vilnius, where experts from over 20 different countries shared their knowledge and views. The Report of this working package is available online: <http://qualaid.vgtpt.lt/sites/default/files/0412675001517559135.pdf>

2. Working package II was dedicated to drafting these Practice Standards and “Tools and Criteria for Measuring Legal Aid Quality: Guidelines to EU Member States”. These two documents were the major outcomes of this package. It is important to note that extensive survey on the quality of legal aid was implemented to validate the initial ideas of the project partners and to support them with inputs from different experts across Europe. In June 2018, a workshop was held in Frankfurt to discuss the findings of the survey and to exchange further ideas;
3. Working package III consisted of organising training events in three project countries. Training events were held in October-December 2018.

III. Introducing the tools and criteria for measuring legal aid quality: guidelines for EU member states

This document, entitled “Tools and Criteria for Measuring Legal Aid Quality: Guidelines for EU Member States” is a methodological tool dedicated to specific aspects of legal quality assessment. It was prepared taking into account that one of the objectives of the project was to develop terms of references for assessing the quality of legal aid.

It should be noted here that there are different understandings as to what the terms of reference definition includes. For the purpose of this

document, we perceive the terms of reference as **criteria and guidelines for the methods of legal aid evaluation instruments and their implementation principles**.

Through a variety of methods used when implementing the project (analysis of good practices in national regulations, interviews with legal professionals and legal aid beneficiaries, quantitative survey of experts, project expert discussions, study visits, workshops and project conferences), we have developed guidelines and criteria for quality assurance in legal aid, which, together with examples and explanations, **are meant to serve as recommendations on good practices** in the field of quality assurance in legal aid. We hope that this methodological tool will benefit the institutions responsible for the organisation of legal aid, for lawyers' associations (Bar's), individual lawyers and professionals working in the field of legal aid.

The main challenge for the project "Enhancing the Quality of Legal Aid: General Standards for Different Countries (QUAL-AID)" was to be able to suggest common standards and criteria for European Union countries that are so different in their legal and cultural contexts and traditions. Project experts came to the conclusion that in practical terms it is probably impossible to create detailed standards that could be applied uniformly in all or at least in most EU countries. Disparities between the national legal systems and the cultural context became especially evident in the course of the project, when during meetings, study visits, interviews with experts, we have noticed significant differences between the countries of the three project partners alone. We clearly understood that what could be implemented and work well in the Netherlands is completely unacceptable and difficult to implement in neighbouring Germany. Not only the models of legal aid are different, but also legal

regulations and approach to important principles such as the independence and autonomy of lawyers, the confidentiality of the relationship between the client and the lawyer, the legal status of the lawyer, the legal structure of the administration and supervision of the legal aid, their role, relationship with lawyer's community and other aspects vary significantly. Considering this context, we have developed guidelines that are more **general and non-binding**. Their main objective is to assist legal aid administrators and providers in accessing and **selecting the tools/standards appropriate to their legal aid system**.

The publication will firstly discuss the general principles and preconditions for assessing legal aid as a prerequisite for the implementation of the evaluation of the quality of legal aid that complies with the legal principles and international standards. Subsequently, the main evaluation tools and forms will be reviewed. Finally, the focus will turn to individual evaluation (audit) of legal aid providers' activities. As to individual evaluation, it should be noted that on the one hand it is often regarded as one of the most advanced tools of assessment of the activities of legal aid providers. On the other hand, its application, in the view of the aforementioned diversity of national systems, raises a number of questions regarding the possibilities of this instrument to be implemented in countries where the principles of independence of lawyers and the client-lawyer confidentiality are strictly protected. For each aspect of the assessment, we will provide methodological recommendations and guidelines, which we formulated using various methods and sources through the project.

I. Principles and Preconditions of Legal Aid Quality Evaluation

1.1. Lawyer's independence and autonomy principle

Principle 12 of the United Nations Principles and Guidelines on Access to Legal Aid establishes that “States should ensure that legal aid providers are able to carry out their work effectively, freely and independently. In particular, States should ensure that legal aid providers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel, to consult and meet with their clients freely and in full confidentiality both within their own country and abroad, and to freely access prosecution and other relevant files; and do not suffer, and are not threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognised professional duties, standards and ethics.”⁷

The Code of Conduct for Lawyers in the European Union indicates that a lawyer shall be free from all other influence, especially such as may arise from his personal interests or external pressure. Such independence is as necessary to trust in the process of justice as the impartiality of the judge. A lawyer must, therefore, avoid any impairment of his/her independence and be careful not to compromise his/her professional standards in order to please his/her client, the court or third parties.⁸

⁷ United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, adopted by the General Assembly in December 2012 in Resolution 67/187.

⁸ Code of Conduct for Lawyers in European Union: https://www.idhae.org/pdf/code2002_en.pdf

The professional lawyer's independence has traditionally been regarded as a fundamental professional principle and includes such dimensions as independence from the State, including legislative, executive and judicial authority, independence from the client and other external influences.⁹

It is important to note that the main idea behind the lawyer's independence principle in Europe is to defend a person from the State, and lawyers in this regard implement an important mission to defend people from the improper use of State power. In addition to that, the Anglo-Saxon tradition puts emphasis on the principle of independence of the lawyer from the client.

In this context, lawyers in most European countries are particularly sensitive to any public intervention in the work of lawyers. This problem was also revealed when conducting interviews within the project. Many experts, in particular lawyers, noted that the assessment of lawyers' activities when providing legal aid, especially when organised by public authorities, would undermine the independence of lawyers. In European countries, the Bar usually has strong self-government powers including functions of supervision and control of lawyers' work and disciplinary proceedings. The role of public authorities in regulating and supervising the activities of the Bar in many European countries is minimal.

1.2. Protection of confidentiality of lawyer-client relationship as a precondition for evaluation of legal aid providers work

As with the principle of lawyer's independence, the principle of protec-

⁹ Kiršienė J. Advokato nepriklausomumas teisinių paslaugų rinkos komercializacijos kontekste: reliktas ar būtinybė? *Jurisprudencija*. 2014, 21(3).

tion of confidentiality of the lawyer – client relationship is established in practically all democratic countries. The third parties' intervention (regardless of whether they are public authorities, organisations, private individuals or legal entities) into the relationship between a lawyer and a client and the disclosure of confidential information is not permitted.

The Code of Conduct for Lawyers in the European Union determines that it is of the essence of a lawyer's function that he should be told by his/her client things which the client would not tell to others and that he should be the recipient of other information on a basis of confidence. Without the certainty of confidentiality, there cannot be trust. Confidentiality is, therefore, a primary and fundamental right and duty of the lawyer. The lawyer's obligation of confidentiality serves the interest of the administration of justice as well as the interest of the client. It is therefore entitled to special protection by the State.¹⁰

The European Court of Human Rights (hereinafter referred to as the ECtHR) has stated in various cases that the right of the accused to communicate with lawyers without third-party involvement emanates from Article 6 (3) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the ECHR), which ensures the person's right to self-defence with the help of a lawyer. Communication with a lawyer is also related to Article 8 of the ECHR, which provides for the right to protection of private and family life, housing and correspondence.¹¹

The majority of violations established by the ECtHR in its case law in

¹⁰ Code of Conduct for Lawyers in European Union: https://www.idhae.org/pdf/code2002_en.pdf

¹¹ Nasutavičienė J. The Right to Confidentiality of Communications between A Lawyer and A Client during Investigation of EU Competition Law Violations: The Aspect of the Status of a Lawyer. *Jurisprudencija*, 2013, 20 (1).

this field concerned the protection of the confidentiality of the lawyer and the client during criminal proceedings when confidential information, not related with the object of criminal investigation, was collected and became available to third parties (law enforcement authorities).¹²

Audits of private companies, where information related to the relationship between a lawyer and a client is provided to third parties, is generally considered as a breach of confidentiality (lawyers – clients privilege).¹³ There is also an opinion that exceptions in this context should not apply to audits of legal services (legal aid) carried out by public authorities.¹⁴ Also, as mentioned above, it is important to note that intensiveness of confidentiality protection varies between countries. For example, in the Anglo-Saxon countries, the requirements for the protection of confidentiality are lower than in most countries of Continental law. There is a widespread practice in the United States and Australia that lawyers are supervised by other institutions, such as courts, ombudsmen and others¹⁵. This would be hard to imagine in many European countries belonging to the Continental law system. Accordingly, the confidentiality protection in these countries is less stringent. Not surprisingly, in Anglo-Saxon countries, audit instruments are the most widespread.

Thus, rigorous legal protection of confidentiality can become a barrier to the individual assessment of lawyers' activities, especially in countries

¹² See: Nasutavičienė J. The Right to Confidentiality of Communications between A Lawyer and A Client during Investigation of EU Competition Law Violations: The Aspect of the Status of a Lawyer. *Jurisprudencija*, 2013, 20 (1).

¹³ Samuel J. Levine, Legal Services Lawyers and the Influence of Third Parties on the Lawyer-Client Relationship: Some Thoughts from Scholars, Practitioners, and Courts, 67 *Fordham L. Rev.* 2319 (1999).

¹⁴ *Ibid.*

¹⁵ Kiršienė J. Advokato nepriklausomumas teisinių paslaugų rinkos komercializacijos kontekste: reliktas ar būtinybė? *Jurisprudencija*. 2014, 21(3).

where strict requirements for the confidentiality of lawyer-client relationship are established. For example, in the case of an audit, a lawyer may refuse to provide data relating to his/her relationship with the client, arguing that such action would violate the principle of confidentiality and reveal professional secrecy.

However, it is important to emphasize that the principle of confidentiality is not absolute and has certain exceptions. These exceptions include, first, the threat of a crime, physical harm, etc., second, the consent of the client to disclose information to third parties.¹⁶ In general, these are exceptions which excuse the lawyer from the duty of confidentiality allowing him/her to reveal information.

As to a client's consent to disclose certain information, it is not entirely clear how such an exemption should be applied to cases where consent is given to a third party – an auditing body. Since the client-lawyer relationship concerns two parties, most likely in that case the lawyer's consent should also be obtained.

The question could also be dealt with from the other perspective. In the case of audit (peer review) of a lawyer's file of a certain case, the question of the lawyer's duty to protect confidential information of the client arises. In this regard, lawyers should be allowed to object to inspection of certain parts of the file if they consider that inspection of such documents could lead to breach of the duty of confidentiality.

As a general rule, a violation of confidentiality is not deemed to be the case when the Bar applies disciplinary liability to a lawyer on the basis of a client's complaint. However, the basis for auditing a lawyer's activ-

¹⁶ Susan R. Martyn, *In Defense of Client-Lawyer Confidentiality ... and Its Exceptions ...*, 81 Neb. L. Rev. (2002).

ity is usually not a disciplinary offence and/or a specific complaint by the client - the audit is carried out as a preventive “front door” measure. Therefore, it is important to answer the question whether a detailed audit of the lawyer’s activity, covering the content of the lawyer’s and the client’s communication, does not violate the principle of confidentiality.

In the case of lawyer-Bar relationship, another way to deal with lawyer-client confidentiality obligation exists. For example, the Code of Ethics for Lawyers in Lithuania stipulates that the presentation of information constituting an attorney’s professional secret to the Lithuanian Bar Association or its bodies is not considered a disclosure of a client’s secret and violation of confidentiality. Therefore, in this case, one might presume that the audit performed by the Bar would not be likely to constitute such an infringement. Similar examples could be given from the Dutch practice – lawyers’ community, after evaluating the great vulnerability of refugees, in cooperation with the Legal Aid Board decided to implement a quality lawyer’s work audit (“peer review”) in refugee law cases.¹⁷

1.3. Public interest and efficiency of use of State resources

Legal protection of vulnerable members of the society is a duty of the State and, at the same time, a public interest. Therefore, legal aid goes beyond the scope of a private lawyer – client relationship. The public interest is primarily based on ensuring the rights of individuals (especially vulnerable persons), while public resources are used as a means to achieve this. The public interest and, accordingly, the use of public

¹⁷ The project’s experts learned this information during a study visit to the Netherlands.

resources, are one of the main arguments used in arguing why providers need the supervision of public administrations.

The principle of protection of public interest is in a certain conflict with the principles of the protection of the independence of lawyers and the confidentiality of their relationship with clients. The key issue here is the extent to which public intervention is possible without interfering in the independence of lawyers and the confidentiality of lawyer-client relations.

The answer to this question varies in national systems. It depends on: (1) the legal tradition (for example, whether the State follows the Continental or Anglo-Saxon legal system); (2) the peculiarities of regulating the protection of the above-mentioned principles in different countries; (3) the level of trust between Bars and State authorities. In any case, the public interest must be pursued through joint efforts, in so far as possible respecting the independence and autonomy of lawyers and other principles of lawyers' activity.

1.4. Cooperation and mutual trust principle

Legal aid providers are usually lawyers who are members of an independent and autonomous professional association (Bar). Therefore, in a democratic society, State decisions related to intervention in the activities of lawyers should not be based on subordination and imperative approach. Instead, activities of State institutions when ensuring legal aid as well as administrative and supervisory functions related to it must first of all be based on the principle of cooperation. All political, administrative, legal decisions related to intervention in lawyers' activities should be coordinated with and/or accepted by the Bars.

In order to safeguard the principles discussed above, it is recommended that, when implementing any evaluation tool that relates to intervention in the independence of lawyers and the confidentiality of the lawyer-client relationship, it is important to:

1. assess the national legal regulation in terms of the protection of the principle of confidentiality. If it is necessary, legal safeguards for the protection of confidentiality should be provided, since this constitutes legal preconditions for the implementation of evaluation tools for legal aid providers' activities (for example, the conditions for the client's consent, the decision of the lawyer's self-government institutions, as well as clear and objective evaluation criteria and mechanisms);
2. seek consensus and compromise with the Bar. Decisions on the implementation of such measures should be taken and implemented by Bars themselves, or the Bars must be equally involved in the decision-making process of quality assurance and evaluation of legal aid, as far as this is related to intervention in the activities of lawyers. Engagement should not be merely formal; the Bar should be given a decision-making power.

1.5. Quality standards as a precondition for assessing legal aid

Legal aid quality standards are guidelines and principles that highlight the quality of the provision of legal aid services. Two types of standards can be distinguished:

- Standards for the legal aid system – indicating which mechanisms and instruments should be implemented in the national systems

in order to achieve a high quality of legal aid; and

- Standards for individual providers – i.e. a set of standards guaranteeing a high quality of legal aid service.

The second form of standards is relevant in the framework of this manual, which is seen as an important precondition for assessing the quality of the activities of providers. An essential condition for verifying the quality of any activity is to determine the criteria and requirements for the activities for which it should be evaluated.

In the field of legal aid, these are the requirements (standards) that a lawyer (or other legal aid provider) must follow when providing legal aid. Lawyers' work is usually regulated by law, by professional codes of ethics and other regulations of the Bar. These laws and documents establish common standards for lawyers' activities. Typically, such acts include the requirements for the qualification of lawyers, the conduct of ethics, the relationship between the lawyer and the client, the protection of confidentiality, the avoidance of conflicts of interest and other principles. Lawyers who do not comply with these requirements are generally subject to disciplinary liability.

An important question is whether there is a need for specific standards for lawyers providing legal aid. As demonstrated by the study carried out during the project, professionals do not support this idea. Some respondents (in particular, lawyers) indicated that specific standards are not needed. In their opinion, the general requirements for lawyers that are established in codes of conduct or in the general standards for the practice of lawyers are fully sufficient. One of the main arguments is that lawyers must provide the same quality of assistance to both: those who receive state-guaranteed legal aid and those who are provided with legal services on a commercial basis.

On the other hand, the lawyer's profession is characterised by a commercial (profit-seeking) aspect. Therefore, the amount of work and time spent often depends on the amount of remuneration. In practice, in most countries remuneration for legal aid services is lower than that received by lawyers under private contracts. There is, therefore, a risk that lawyers will put less effort and time into providing legal aid services. Low financial motivation as one of the main barriers to the quality of legal aid has also been noted by many experts involved in project surveys.¹⁸

The main arguments in support of specific standards mostly bring forward the public interest approach and the fact that legal aid is financed from the State budget. As noted above, legal aid is perceived as a State-delegated service aimed at ensuring the rights of the most vulnerable people in society. Therefore, there is an opinion that specific mechanisms for monitoring the quality of legal aid should be identified and applied.¹⁹

It is important to add that quality standards are significant not only for the protection of human rights (rights of the most vulnerable groups of the population), but also as an instrument for defining quality indicators, or in other words, specifically defining what elements constitute the quality of legal aid. In evaluating specific activities, the auditor needs to know what should be evaluated, and legal aid providers need to know

¹⁸ During the project in Lithuania, Germany and the Netherlands, about 250 respondents participated in surveys and interviews: legal professionals (lawyers, judges, prosecutors), civil servants working in the field of legal aid, NGO representatives, police officers and legal aid clients).

¹⁹ The difference in opinion about the standards is also reflected in the results of the expert survey carried out during the project. The survey showed that the relevance and need of standards are assessed as a measure of medium importance: it was evaluated with 3.6 out of five possible.

what is required of them and which aspects of their work are evaluated. Therefore, the establishment of standards as a set of quality indicators together is a prerequisite for the evaluation of professional activities.

In case there is a common agreement in a country as to the need of the specific standards for legal aid providers, such standards should be approved by the Bar (due to independence of the lawyers' profession) or together by the Bar and the State body responsible for legal aid.

Is the quality assessment of the providers possible in the absence of specific legal aid standards? As mentioned above, any evaluation of activities requires some quality indicators. In national systems that do not provide specific standards for providers, the work of legal aid lawyers can still be assessed in accordance with the general standards for lawyers' activities, e.g. lawyers ethics codes and legal acts.

1.6. Lawyer's activity documentation as a precondition for the quality assessment of legal aid

The use of advanced tools for auditing lawyers' activities (e.g. peer review) enables not only to assess the quality of legal documents drafted by a lawyer, but also such aspects as the clarity, completeness and correctness of communication with the client, legal competence, documents and advice provided to the client, the adequacy of the consultation time, the suitability of the strategy for the client's defence purposes, the use of resources, the ethics of professional conduct, risk management, etc. A prerequisite for assessing these aspects of the lawyer's activity is the detailed documentation of the file. However, not all national systems impose a requirement for lawyers to collect and keep documents on the

progress of the case. For example, such a requirement is not foreseen in the legislation of Lithuania and the Netherlands, States represented in the Project partners. This could be a significant barrier to the assessment of the activity of legal aid providers. The lack of documentation prevents not only the application of operational audit measures, but it can also complicate the process of disciplinary liability when submitting complaints or other information about violations of lawyers' activities. On the other hand, such a requirement may reduce the motivation of lawyers to provide legal aid, since documentation requires a considerable amount of time. This is especially true in countries where the remuneration of legal aid providers is significantly lower than the average lawyers' remuneration in the market.

II. Legal Aid Quality Evaluation Forms and Tools

Depending on the area and level of assessments, two forms of assessment can be distinguished:

1. A general assessment of the legal aid system;
2. An individual evaluation of legal aid providers.

The main evaluation methods and tools will be discussed further.

2.1. System evaluation tools

When assessing the legal aid system, the main task is to identify general indicators of the quality of legal aid. Depending on the source of the data, those can be divided into **objective and subjective indicators**.

2.1.1. Objective quality indicators

Objective quality indicators are based on factual information about a particular activity, such as statistical data, official information from authorities, case law, etc. Their purpose is to assess the compliance of the system with legal, financial, administrative requirements and standards. In order to establish objective indicators of the quality of the system, it can be assessed:

- Legal aspects of legal aid, i.e. the conformity of national legal regulation and application of legal aid, international and EU standards, constitutional principles, national laws;

- The financial and administrative efficiency of the legal aid system (for example, the assessment of how effectively the funds are used, and other resources that comply with the principles and rules of financial and administrative management, etc.);
- The compliance of the legal aid administration and/ or providers with the requirements of legality, ethics, quality (etc.), principles of good administration, etc., established by law;
- Compliance of the system with the standards of good practice.

Below evaluation instruments aimed at establishing the objective indicators of the quality of the legal aid system are discussed.

Analysis of data on the legal aid system

This is a general evaluation of the system on the basis of the analysis of collected statistics and other significant data on legal aid. The quantitative indicators of the system are analysed, such as the number of applications for legal aid, the number of solicitors, the numbers indicating the activity or passivity of lawyers in certain areas of legal aid, the number of complaints and their structure, violations of lawyers and their structure, the dynamics of various indicators over several years, etc. This analysis helps to reveal certain trends that are used as indicators to identify problems in the system and their causes and to select and implement problem-solving tools accordingly.

For example, statistical indicators may reveal that in certain categories of cases there is a lack of lawyers, although the total number of lawyers providing aid is quite high. Applying additional research methods, such as surveys or analysis of the content of cases, could help to reveal the cause of the problem. For example, lawyers may not want to work in cer-

tain cases due to their complexity, taking into account the high amount of time and the inadequate remuneration. In this case, it is advisable to take measures to encourage lawyers to choose more complex cases, for example by introducing more flexible payment calculation mechanisms, differentiating remuneration according to the complexity of the case, etc.

Data analysis can also be used for prognosis purposes. For example, in Lithuania, a problem has arisen when one large-scale criminal case demanded a significant number of state-guaranteed legal aid lawyers. As a result, a shortage of legal aid lawyers appeared in Vilnius city (it has become difficult to find lawyers for other criminal cases). In such a situation, prognosing and preparing for a possible shortage of lawyers would be appropriate. A possible solution could be cooperation with the Bar seeking to encourage the involvement of a larger number of lawyers for a certain period. It could be necessary to allocate additional financial resources or to attract lawyers from other regions where the workload of lawyers is lower, etc.

The general assessment of the quality of legal aid providers' work should also be mentioned. It is a general analysis of the activity of lawyers, carried out on the basis of such data on his/her activities as complaints, official documents, court records, etc.

The purpose of this assessment is to identify general indicators and tendencies of the work of lawyers, such as the quality of the documents prepared by lawyers, the number of successful cases, etc. A prerequisite for such an assessment is the creation of an evaluation methodology in which the criteria for the object under consideration (such as legal documents) must be determined, leaving as little space as possible for the subjective assessment and interpretations of the evaluator. For example,

the assessment methodology should detail the criteria for the quality of a legal document. Ideally, such an assessment would be organised by the lawyers' community's self-governing bodies (Bars) either in the formulation of the methodology or in the conduct of the research and evaluation of the results. Later on, we will discuss in more detail the possible tools for this form of assessment.

A general analysis of official documents prepared by lawyers is aimed at assessing the quality of legal representation based on sources such as appeals and cassation complaints, procedural complaints, records from court hearings, etc. The main objective of this analysis is to identify problematic aspects of representation and the quality of legal documents. The data is analysed in a depersonalised manner, according to the established criteria, the results of the analysis are summarised.

Quantitative analysis of successful cases is a debatable method of assessment since the purpose of defence in criminal proceedings is not simply to achieve an acquittal (in many cases it is not possible) but to protect the interests of the client. On the one hand, the lawyer must seek to improve the legal status of the client as much as possible and to choose the best defence strategies; on the other hand, the lawyer must act in line with the client's interests and wishes (e.g., in some cases a better result might be achieved with a different defence strategy than the one chosen by the client). Moreover, the result might depend on a variety of external factors (e.g. in certain districts the criminality rate is higher, it is more populated with lower social class, society is less educated, etc. and thus, the lawyers working in the area might be handling cases where the success rate is naturally lower). Therefore, it is rather difficult to assess which case should be seen as successful and to what extent the success is influenced by lawyer's contribution.

Nevertheless, a prudent assessment is possible. For example, using this assessment method, it could be possible to conduct a comparative analysis of outcomes of legal aid lawyers' cases in socio-demographically and economically similar cities or country regions, e.g. by assessing in how many cases the final result was more favourable to the client than the one that was sought in the indictment act of the prosecutor. Since the outcome of a case often does not only depend on the lawyer, but also on the quality of the work of the judge and the prosecutor, such an assessment should be used as an orientation instrument only. It is appropriate to use this instrument in combination with other assessment tools (e.g. analysis of complaints, surveys, analysis of legal documents drawn up by lawyers, etc.).

Analysis of complaints

The number of complaints and the analysis of their content and structure helps to identify the areas and problems faced by the beneficiaries of legal aid. However, it is important to note that complaints do not always represent a general map of legal aid problems and there is a risk that the analysis of complaints may not accurately reflect the actual situation.

Firstly, only a limited number of legal aid beneficiaries who are not satisfied with received legal aid do submit complaints. Therefore, there is a certain risk that complaints can only reveal the issues of a specific group of clients. Secondly, there are certain aspects of the activity of the lawyer, such as quality of legal representation and legal quality of drafted documents, that are difficult for a client to notice. As a result, these aspects may not be sufficiently disclosed in complaints. On the other hand, analysis of client complaints is one of the least costly instruments of the assessment of legal aid quality as, for example, unlike in the case of surveys, there is no need for additional resources to collect data.

Non-governmental organisations' monitoring

Non-governmental organisations (NGOs), as independent entities, can make a significant contribution to highlighting and revealing existing human rights issues in the legal aid system and actively participate in solving them. Two forms of monitoring by non-governmental organisations can be distinguished:

1. Monitoring which is carried out on behalf of the State. For example, a State body responsible for providing legal aid may delegate to or request legal aid system assessment services from NGOs. The main disadvantage of such studies is the risk that in such a case, NGOs are dependent on funding by State, and therefore their monitoring may be influenced by the public authority;
2. Monitoring carried out on the initiative of an NGO. An example of the implementation of such a monitoring form could be the work of the Human Rights Monitoring Institute in Lithuania, which regularly conducts legal research in terms of human rights protection (including legal aid).²⁰ Such studies are not affected by the frameworks or funding conditions of the State and are, therefore, an important source for assessing the quality of the system.

System evaluation according to standards of good practice

This is a form of assessment of the quality of the legal aid system in the light of examples of good practices in different countries. On the basis of this indicator, it is assessed whether a given national system implements measures that are considered to be effective in ensuring the quality of legal

²⁰ See more: <https://hrmi.lt/en/accessible-justice-access-to-lawyer-study-2017/>

aid. This assessment tool is based on the assumption that the implementation of measures seen as good practice examples ensures greater system efficiency and the quality of the activity in a specific area. Good practice standards (toolbox) were also created in the framework of this project.²¹

Table No. 1. Tools for evaluating legal aid systems that focus on objective indicators of the quality of legal aid

Evaluation tool	Advantages of the tool	Shortcomings of the tool (potential risks and problems)
Analysis of general data on the legal aid system	Provides a map of potential problems and risks, and helps to model appropriate decisions.	Designed for identification of more general trends. The risk of subjective interpretation of data, for example, evaluation reports probably can present only data that reflects a positive image of the institution.
Analysis of the content of official documents prepared by legal aid providers	Allows the assessment of generalised information about the quality of legal documents drafted by legal aid providers.	Limited assessment: only a narrow aspect of the work of legal aid providers is evaluated. The risk of subjective or poor-quality assessment, for example, when specialists performing such an assessment lack competence and methodological knowledge. Therefore, clear evaluation criteria should be established defining the content of the qualitative or poorly prepared document as well as clear and high qualification requirements for the evaluators.
Analysis of successful cases	The tool which could be useful as comparative method, e.g. comparing case results in similar cities or regions. It is appropriate to use this instrument in combination with other assessment tools (e.g. analysis of complaints, surveys, analysis of legal documents drawn up by lawyers, etc.).	It is being difficult to: set objective criteria of successful results of case; assess whether the success is influenced by lawyer's contribution or other factors.

Analysis of complaints	Provides information on lawyers' (potential) violations and allows to reveal problematic areas of their performance. It also reveals the aspects of lawyers' work which are perceived as the most sensitive by clients.	Lack of representativeness; Only aspects related to potential violations of lawyers recorded in complaints are evaluated. Subjectivity element: the information contained in the complaints does not yet reflect the fact of the violation.
NGO monitoring	Independent; There are no bureaucratic restrictions and subordinate relationships (for example, NGOs may be much freer to criticise the system).	If case monitoring is requested by the State, there is a risk of influence. There may be a lack of competences and resources to ensure the quality of the research (especially in countries with low NGO funding).

2.1.2. The subjective quality indicators

The sources of **subjective quality indicators** are opinions of clients or professionals (judges, prosecutors, police officers, etc.) who are encountering legal aid in their everyday work. The evaluation can be carried out quantitatively, for example through representative surveys, or through qualitative methods such as interviews, discussion groups; also through observation of meetings, when no individual lawyer is observed but the general data are analysed and presented in a quantitative and depersonalised manner.

Legal aid client surveys

The purpose of legal aid is, first of all, to ensure the rights and interests of the persons who are provided with this service. Therefore, client opinion is an important source when evaluating the quality of legal aid. In order to objectively evaluate client opinion, however, it is important to follow the requirements of methodological surveys, in particular to

ensure representativeness and to formulate questions properly. For example, it is advisable that the questions are sufficiently comprehensive, clear and specific in order to identify relevant subjective quality indicators in conducting customer surveys. Therefore, it is recommended to involve researchers with methodological knowledge and experience in conducting such surveys.

The main disadvantage of such surveys is that legal aid clients usually lack legal knowledge. In most cases, they can only assess certain behaviour and communication of lawyers (e.g. politeness, punctuality, attentiveness, clarity of counselling, etc.). As interviews conducted during the project “Enhancing the Quality of Legal Aid: General Standards for Different Countries (QUAL-AID)” revealed, there are cases when lawyers demonstrate good communication abilities and hide the lack legal knowledge in this way.²²

In this regard, client surveys should not be used as the sole quality assessment tool, but should also be supplemented by other instruments, such as surveys of professionals, complaint analysis, etc. In any case, customer satisfaction is an extremely important source, since in the end they are the main recipients and beneficiaries of legal aid or, in other words, these people and their well-being are the primary objective of legal aid.

Surveys of legal professionals (e.g. judges, prosecutors, pre-trial investigation officers)

In order to assess the professional-legal elements of the quality of legal aid, it may be appropriate to refer to professionals who have competence

²² See: Assessment of the existing legal frameworks and practices aimed at ensuring high quality legal aid in criminal proceedings. WS1 Report. 2017: <http://qualaid.vgtp.tl/lt/rezultatai>

in legal matters. The opinion of officials (judges, prosecutors, pre-trial investigation officers) is important when assessing the quality of legal proficiency in legal aid (representation in courts, quality of legal documents prepared by a lawyer (e.g. appeals), etc.). These are legal professionals who, while observing the activities of lawyers in their everyday work, have a possibility to see the weaknesses or advantages of their legal representation. On the other hand, as the surveys carried out during the project showed, such an assessment should be conducted with caution, as these officials are another party to the process, with objectives other than defence. Therefore, in some cases, an active lawyer (raising questions, complaining about procedural actions and decisions) may be inconvenient to the judge or the prosecutor, and their assessment may not always be positive, although from the perspective of the client's defence and/or representation lawyer's activity would be assessed positively. Such assessments can be carried out either through quantitative, representative surveys, or qualitative methods such as focused group discussions or interviews.

The third subjective tool for assessing the legal aid system is **the lawyers' survey**. The results of the application of this instrument may depend on the subject of assessment. If attorneys are asked to assess the quality of a lawyer's work, one might assume that the assessment provided by lawyers will not reveal any real issues as they may not be inclined to disclose internal problems of their community or to evaluate the work of colleagues. Nevertheless, if anonymity is ensured and questions are properly formulated, lawyers' surveys could be an important source of information on the quality of legal aid (for example, interviews conducted during the project, revealed that lawyers try to critically and objectively evaluate their own and their colleagues' activities).

Lawyers' surveys are a particularly important source for assessing weaknesses in the organisation of legal aid, such as the efficiency of the administration and organisation of legal advice, etc. Such a lawyer's survey can be a relevant source for the system administrator to assess its operational weaknesses and to seek solutions in cooperation with direct providers of legal aid services.

The question might arise as to who should organise the above-mentioned surveys. It can be both a public authority responsible for organising legal aid (e.g. the Ministry of Justice, the Legal Aid Board) and the Bar, which is responsible for the activities of lawyers as legal aid providers. To ensure objectivity and impartiality, surveys should be conducted by independent entities (e.g. academic institutions).

Table No. 2. Tools for evaluating legal aid systems that focus on subjective indicators of the quality of legal aid

Evaluation tool	Advantages of the tool	Shortcomings of the tool (potential risks and problems)
Legal aid client surveys	<p>Satisfaction of legal aid clients with the services received is evaluated.</p> <p>A particularly important tool for assessing the quality aspects of legal aid in relation to the behaviour and communication of legal aid providers.</p>	The quality of legal aid can be evaluated to a limited extent: clients generally have limited abilities to assess the quality aspects of the lawyer's legal representation due to a lack of legal knowledge.
Surveys of legal professionals (judges, prosecutors, police officers)	It is an assessment that can provide valuable, professional legal knowledge-based information about the quality of legal aid.	Due to the different objectives of the parties of the criminal proceedings, information may be subjective (for example, an active lawyer may impede the work of a prosecutor or a judge).
Lawyers' surveys	Lawyers' surveys can be an important source for assessing weaknesses in the organisation of legal aid, such as the efficiency of the administration and organisation of legal advice, etc.	There is an issue of subjectivity of such assessment. Thus, it requires a careful preparation of methodology.

2.2 Individual evaluation of legal aid providers

Contrary to the system evaluation which rather collects and analyses aggregated data indicating certain general tendencies, the purpose of individual evaluation is to assess the quality of legal aid by analysing individual cases of legal aid providers. Thus, compared to system evaluation, individual assessment is specific. It highlights the quality aspects of a particular legal aid provider and helps to identify specific and individualised measures for improving the quality. This form of assessment makes it possible to determine whether, for example, the services provided were qualitative enough regarding level of representation and/or public resources were used efficiently.

In practice in different countries, the following forms of individual assessment could be distinguished:

- Observation of legal aid providers' work;
- Analysis of legal documents, prepared by legal aid providers';
- Self-assessment of legal aid providers' work;
- Audit of legal aid providers' work.

Observation of legal aid providers' work is an evaluation method by which experts monitor a lawyer's performance during court hearings and assess the quality of the client's representation (for example, assessment of an argumentation, its comprehensiveness in terms of the client's interests, etc.). The advantage of such an instrument is that it usually does not encounter confidentiality and/or lack of documentation issues. Court hearings and the information provided therein are (usually) public. The main disadvantages of this assessment tool are:

1. limited data on the quality of the activity (only a small part of a

lawyer's work is visible during court hearings). The use of this instrument does not allow to assess other important aspects of the work of the lawyer such as direct communication with the client, quality of advice, etc.);

2. court hearings are often postponed. This complicates the organisation of the evaluation process and increases its costs;
3. a lawyer, being aware that he is being monitored, may change his/her behaviour, which does not necessarily correspond to his/her routine work.

This method may be an alternative to an audit of lawyers' activities in those countries where it is not possible (or it is difficult) to carry out an individual audit of lawyer's activities due to strict regulation of confidentiality of the lawyer-client relationship or lack of requirement to collect and maintain case files. It is also recommended that this method would be used together with other instruments, such as analysis of official legal documents (or court documents containing information on the lawyer's work, legal arguments put forward by a lawyer, etc.). Observation can also be used as one component of the audit of the lawyer's working process.

Individual analysis of official legal documents prepared by a lawyer.

This is an assessment method that evaluates professionalism and competence by analysing the content of official documents (such as complaints or appeals) or the content of court decisions, lawyer's speeches during the court hearings (for example, the comprehensiveness and validity of legal reasoning in legal documents or a lawyer's speech, presentation of evidence and its importance for defence strategy, etc.). The advantages and disadvantages of this assessment instrument are similar to the observation method: the analysis of official documents does not normally conflict with the protection of confidentiality or requirements regarding

archiving of documents, but it is limited in terms of the subject matter of the assessment and its comprehensiveness.

Self-assessment of lawyer's work is a method used by lawyers themselves to self-assess their performance. There are several forms of individual self-assessment of lawyers' activities. For example, audited lawyers may be asked to provide a self-assessment of their performance. However, the risk of such assessment is that lawyers will submit subjective responses and will appreciate their work in a too positive way. The results of the assessment may rather reflect not the quality of lawyer's work but the characteristics of the lawyer's personality. Self-confident or proud lawyers will tend to evaluate their activities better, and modest personality traits can lead to a worse evaluation. As a result, self-assessment tends to punish the honest ones while those overrating themselves get better marks. A more objective instrument is applied in Finland, where both the lawyer and the client fill in the questionnaire, and then one can compare self-assessment and evaluation provided by clients (legal aid beneficiaries).

In order for lawyers to provide as objective data as possible, the results of such assessment should not be used as a basis for liability or other measures that may impair or impede the position of the lawyer. Lawyers' self-assessment questionnaires can be a useful tool for lawyers themselves to consider whether they have taken all necessary steps to provide a high-quality representation of the client taking into account the obstacles and risks that have arisen and providing risk management measures, etc. Such an instrument can also be used without providing the results to third parties (or providing only anonymous information).

Individual audit of legal aid providers' work (peer review)

This is a comprehensive assessment of the activities of an individual legal

aid service provider (lawyer) by independent experts. As a rule, individual legal aid providers are audited by their colleagues (peers), i.e. highly qualified lawyers with extensive experience and knowledge in the field of auditing. The audit involves assessing the lawyer's file in accordance with established criteria and the rating system in order to determine the quality of legal advice and legal representation in a particular field of a lawyer's work. This assessment tool, which is presented in the scientific literature as one of the most advanced means of quality assurance for lawyers, will be discussed in more detail.

The peer review audit tool was developed in the late 90s by scientists A. Sherr and A. Paterson and it is being used since many years as a tool for quality assessment of legal aid lawyers in the UK. This instrument has also been adopted in countries such as the Netherlands (in asylum area), South Africa, Chile, China, New Zealand. Pilot projects also ran in Georgia, Finland, Moldova, and Ontario, Canada²³.

Peer review is defined as:

“The evaluation of the service provided against specified criteria and levels of performance by an independent person with significant current or recent practical experience in the areas being reviewed”

The main objectives of such an audit are:

1. to ensure that the legal aid beneficiary receives services corresponding to quality standards (peer reviewers assess the quality of the outcomes achieved by legal aid providers, the overall quality of performance by legal aid providers);

²³ Paterson A., Sherr A. Peer Review and Cultural Change: Quality Assurance, Legal Aid and the Legal Profession: http://internationallegalaidgroup.org/images/miscdocs/Conference_Papers/Peer_Review_and_Cultural_Change.3docx_28APAS29.pdf

2. to attain continuous improvement by providers;
3. to ensure that public resources allocated to legal aid are used efficiently (that is, taking into account the principles and requirements of economy and legality).

For example, in New Zealand, which is regarded as one of the most advanced State's in the field of quality assurance in legal aid, the following audit goals are identified:

- evaluate whether legal aid services are provided in compliance with the requirements of efficiency and ethics;
- evaluate whether resources are allocated in an efficient and lawful manner;
- evaluate whether billable hours of legal aid are based on objective circumstances, for example, depending on the type and complexity of the case;
- evaluate whether services are provided in compliance with legal requirements (standards) and contractual obligations;
- to assist legal aid providers in improving their activities by providing methodological assistance to them;
- to investigate complaints or the conduct of a lawyer;
- to identify risk factors for counter-measures, preventing violations and protecting clients' rights and interests.²⁴

Advantages of peer review compared to other valuation tools:

²⁴ Terms of reference: Quality and Value audits. Ministry of Justice. New Zealand. 2015: <https://www.justice.govt.nz/assets/Documents/Forms/Terms-of-Reference-Quality-and-Value-Audits.pdf>

- assessment is comprehensive, i.e. it evaluates all aspects of the lawyer's activities related to communication (e.g. clarity and comprehensiveness of legal advice), ethics, resource efficiency (financial, timing, human resources), professionalism and competence (representation in court hearings, quality of produced legal documents), etc.;
- the audit is carried out by experts who are highly qualified lawyers. It is presumed that the quality of the lawyers' work can best be measured by their peers, experienced professionals in the field who are best at knowing how the work of a lawyer is to be done.

Disadvantages of peer review in comparison with other assessment tools:

- There could be issues regarding the principle of lawyer's independence and client-lawyer confidentiality. As mentioned before, in many European countries there is a rigorous protection of these principles, and this can be an obstacle to the introduction of this evaluation instrument. Therefore, an indispensable condition for individual assessment is its compliance with national legal regulations regarding the protection of lawyer's independence and client relation confidentiality.²⁵ Another important step is to set the safeguards for protecting these principles, for example, entrusting evaluation to the Bar or involving lawyers' community in the creation and application of this instrument. It is also suggested to provide other conditions for submission of data for evaluation, such as beneficiaries' consent, etc.

²⁵ For example, Article 109 of the New Zealand Law on Legal Services provides that the protection of professional secrecy of an advocate for audit purposes does not apply to communication between a legal aid provider and his/her client. This means that the provider must provide legal files, records, documents and other relevant information required by the auditor. The law also states that this information cannot be used in any proceedings against the client or in any other way that may be harmful to the client (See: New Zealand Legal Service Act 2011: <http://www.legislation.govt.nz/act/public/2011/0004/latest/whole.html>).

- the implementation of this instrument requires resources as peer reviewers need to be selected, intensively trained and their work should be paid.²⁶

Body organising an audit/ peer review

Depending on the national legal aid model, the peer review organiser may be a public authority responsible for overseeing legal aid, for example, the Ministry of Justice, Legal Aid Board, Legal Aid Service, or the Bar. As mentioned above, in the light of the high protection of a lawyer's independence and confidentiality of the client-lawyer relationship, the main actors directly implementing peer review tools in European countries for assessing a legal aid lawyer's work should be Bars. In all cases, the lawyers' community should be included in decision making and implementation processes regarding assessment of legal aid quality.

Requirements for auditors/ peer reviewers

Auditors should be selected carefully and in accordance with strict selection criteria, with high requirements for their competence and qualifications. Selection may take the form of a test, an interview, etc. It is important that not only peer reviewer's knowledge and experience should be assessed, but also other aspects such as motivation, objectivity and impartiality.

²⁶ It is debatable what remuneration should be set for auditors. For example, A. Paterson suggests that auditors should receive the same rate of remuneration as providers. On the other hand, in some countries rates of providers are low compared with the salaries of private lawyers, thus it can create difficulties attracting highly qualified lawyers to become auditors. It is important that the situation in each country be assessed individually, and in certain cases, in order to attract highly qualified experts, the remuneration could be higher than that of providers, for example, in some countries it could be appropriate to set auditors salaries that are line with the market value of highly qualified lawyers.

In order to ensure a high quality and objectivity of peer review, it is suggested to follow these general requirements for the selection of peer reviewers:

1. The peer reviewer should be a highly-qualified practicing lawyer;
2. It is recommended that the peer reviewer should specialise in the field of auditing (i.e. financial crimes law, violent crimes, etc.);
3. Work experience (both in general and in certain areas (i.e. criminal, civil, family law, etc.);
4. Candidates for peer reviewers must undergo special training courses (on reviewing and consistently marking files or performances in court according to the set criteria).

Table No. 3. Requirements for candidates for auditors in England and Wales²⁷

<p>Casework Experience</p> <p>Minimum requirements:</p> <ul style="list-style-type: none">• Must have a minimum of 1,500 hours' post qualification casework experience under the LAA contract in the specialist category of law. At least 1,000 of these hours must be personal casework. The remainder may consist of direct supervision of casework.• Must have a current caseload in the specialist category of law. Must have experience of a full range of cases within the specialist category of law, in terms of case type and complexity.• At least 50 % of time spent working (casework, supervision training, etc.) in specialist category of law.• If applying for Crime Peer Reviewer, you (or your firm) must have applied for the Own Client Crime contract. <p>Preferred Experience:</p> <ul style="list-style-type: none">• 3,000 hours' casework experience under the LAA contract in the specialist category of law.

²⁷ Independent Peer Review Process Document. Legal Aid Agency. 2017: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620110/independent-peer-review-process-guidance.pdf

Supervisory Skills

Minimum requirements:

- Currently must meet the LAA supervisor requirements set out in either: the LAA's Specialist Quality Mark (SQM) Standard; or the Law Society's Lexcel Practice Management Standard.
- Is employed as their organisation's "named" supervisor in specialist category of law under a current LAA contract.
- Currently must supervise other fee-earners/caseworkers.
- Experience of supervising staff in the "specialist" category of law.
- Experience of supervising (preferably in at least **2** organisations) at least **4** high-level fee-earners/caseworkers, plus fee-earners/caseworkers with different levels of experience (e.g. trainee solicitors).

Preferred experience:

- A range of previous supervisees in a range of different provider organisations.

Legal aid contract experience

Minimum requirements:

- A range of previous supervisees in a range of different providers.

Preferred requirements

- Experience of working with LAA e.g. as a Quality Manager or through preparation for audits.

Other

Minimum requirements:

- Ability to appreciate different ways of working (in particular in relation to casework), by demonstrating experience of assessing the work of others, particularly in the specialist area of law (e.g. tribunal members, external supervisor, authorised litigator, panel assessor, trainer or carrying out other independent file reviews).

Preferred requirements:

- A practicing solicitor (in England and Wales).
- Experience working in the not-for-profit sector (social welfare categories only).
- Some understanding of the nature of funding legal work.
- Some considered thought on the nature or concept of legal competence.
- Ability to work and agree with others on issues of competence.

Requirements for the appointment of peer reviewers for a particular case

The appointment of experts in an audited case must be aimed at ensuring that there is no doubt as to the impartiality and objectivity of the auditor. Therefore, it is recommended to establish the following requirements and criteria for the appointment of auditors for a particular case:

1. The auditor should not be related to the audited lawyer in a professional, kinship, friendship or other significant relationship. It is recommended that auditors declare their relationship with other lawyers (potential subjects of audit) with whom there is a conflict of interests;
2. The auditor should be from a different region or a city than an audited person;
3. The auditor is selected at random from the list of auditors;
4. Auditors' personal data must not be disclosed;
5. The selection can be made electronically (for example, when the auditor is selected by a program by chance);
6. If a lawyer is selected by a person, it is recommended that other observers are involved in the process (for example, representative from a Bar, legal aid administrator or an NGO, etc.).

It is recommended that auditors are selected bearing in mind their specialisation and experience in the area that is being audited (for example, an auditor to evaluate a juvenile criminal case should be a person who specialises in this field or has experience in similar cases).

Selection of legal aid providers to be audited

The selection of cases to be audited must follow the principles of objectivity and impartiality. Selection methods should, therefore, be used to neutralise, as far as possible, the influence of the subjective human factor. In this context, the discretion of the audited entities must be kept to a minimum.

Subject for audit can be selected in following ways:

- Random selection;
- Target selection;
- Combined target-random selection.

Random sample

This is a method of selection where legal aid providers are selected for audit entirely at random from the total pool of providers or specific groups of specialisations (e.g. financial crimes, violent crimes, etc.). The advantage of this selection can be attributed to the fact that the subjective element is neutralised – an evaluated lawyer has no reason to believe that he/she is being audited because of any deficiencies in his/her activity. This can help to reduce the risk of self-defence, facts or concealing documents, etc.

The disadvantage of this selection method is a lack of representativeness. Problematic cases could not be sampled. Therefore, an audit based on such selection may give a distorted view of the quality of legal aid. For example, it may give a false impression that lawyers work very well and have no quality deficiencies. Therefore, if a random selection method is used, a larger (representative) sample of cases must be audited. Accordingly, such audit-based selection requires more human and financial resources.

Targeted sample

In this selection, targeted lawyers are selected based on various indicators such as client complaints, reports from judges, prosecutors, results of previous audits, other available information. This method is criticised because it has many elements of subjective evaluation. This raises the risk of audit bias. It is recommended to apply it only in cases where the audit need is conditioned by reliable and objective evidence of potential violations and/ or operational weaknesses of a specific lawyer.

Combined Target-Random sample

By using this method of selection, a number of higher-risk depersonalised providers are selected. That is, a hypothetical risk profile is assessed. All legal aid providers who fall under risk profile are subjected to an audit. Generally, the following depersonalised and personalised (individual) criteria are taken into account in countries²⁸ that use audit mechanisms for legal aid.

Depersonalised selection criteria:

- the amount of paid reimbursement (salary) for legal aid (based on the cost-effectiveness criterion it is suggested to focus on the area (or entities) that require the highest public resources);
- the workload, number of cases and clients (assuming that there is an increased risk of poor quality if the workload is higher);
- cases involving the socially disadvantaged, such as minors, people with disabilities, refugees, etc. (based on the provision that priority quality assurance measures of legal aid must be devoted to vulnerable people who have less opportunities to represent themselves).

Personalised sample criteria:

- The number of complaints against a lawyer (including complaints and feedback about the quality of the lawyer's work from legal aid beneficiaries and other stakeholders (judges, prosecutors). Anonymous complaints are also significant, but it is recommended that they be treated with caution and not used as the sole criterion (e.g. it is important whether there are additional non-anonymous complaints, etc.);
- Negative evaluation in court decisions (the application of this criterion is very much dependent on how a court decision in one or another country reflects the quality of representation of the lawyer, how much the courts express (or) can say about the quality of the work);
- Previous misconduct, negative audit evaluation;
- Other sources, such as information obtained through observation of court hearings.

According to these (or similar) criteria, a higher risk group is selected (it is important that the group is not too small as this would increase the subjectivity of the evaluation) from which individual cases for audit are selected at random. Ongoing cases should not be evaluated. Cases should be evaluated only after the period of possible appeal/cassation.

Table No. 4. Example of selection criteria in New Zealand²⁹

In New Zealand, providers are selected for audit at random or by an assessment of risk profile or other form of profiling. Risk profiles are determined by looking at:

- *the amounts paid to a provider in the previous financial year (attained by ratings of high, medium or low) – criminal over \$300,000 high, \$100,000 – \$300,000 med, \$20,000 – \$100,000 low;*
- *family/civil over \$100,000 high, \$50,000 – \$100,000 med, \$20,000 – \$50,000 low;*
- *the number of legal aid files assigned during a financial year;*
- *the percentage increase in fees or number of legal aid files over two consecutive years;*
- *over 10 % high, 5-10 % med, under 5 % low;*
- *the number of complaints over a two-year period; any adverse judicial comments;*
- *recent progression in experience level and Criminal Proceedings Category (as well as new areas of law); or*
- *specific concerns identified as a result of a previous audit report, assurance checking or as a result of the complaints management process.*

Most peer review systems relied on recently closed cases – from the preceding year.³⁰ Numbers of cases selected varied, but a target of 20 case files from one agency³¹ or 5 case files (in Scotland) for one practitioner³² is common. Clearly, the number of cases selected will depend on the number of cases available.³³

In Scotland, there are two levels of files selection and evaluation, the description of which is given below.

²⁹ Terms of reference: Quality and Value audits. Ministry of Justice. New Zealand. 2015: <https://www.justice.govt.nz/assets/Documents/Forms/Terms-of-Reference-Quality-and-Value-Audits.pdf>

³⁰ Sergeant J. Peer review in legal and advice services. 2003: <http://asauk.org.uk/wp-content/uploads/2003/09/Peer-Review-in-Legal-and-Advice-Services.pdf>

³¹ *Ibid.*

³² Sherr A., Paterson A., Professional Competence Peer Review and Quality Assurance in England and Wales and in Scotland. Alberta Law Review. 2008, 45:5: <https://www.albertalawreview.com/index.php/ALR/article/viewFile/341/338>

³³ Sergeant J. Peer review in legal and advice services. 2003: <http://asauk.org.uk/wp-content/uploads/2003/09/Peer-Review-in-Legal-and-Advice-Services.pdf>

Table No. 5. Files selection and evaluation levels in Scotland

"<...> up to five files per legal aid practitioner in a firm are reviewed in the initial or "routine" review. The files randomly selected for review by the Scottish Legal Aid Board' are sent to the reviewers who mark them against the agreed criteria and then return the files and mark sheets to the Quality Assurance Committee of the Law Society (QAC). The QAC examines the reports from the reviewers and determines whether the firm should "pass" the first (or routine) review of its files. Most firms do, and they receive a report informing them that they have passed, but points from the reviewer's reports that need attention for the future are also identified. For the small minority that do not pass at the first time of asking (11 percent in the first cycle) a continuation may be given to clarify further points or an "extended" review (5 percent, in the first cycle) will be instigated. Such reviews take place on site and are conducted by two different reviewers from those who conducted the routine review. They may call for any legal aid file they choose and do not restrict themselves to merely five files. The purpose of an extended review is to see whether the potential flaws detected in the routine review are widely spread through the firm's files, or merely an aberration. Where a firm fails an extended review (fortunately a relatively rare event, only two percent in the first cycle) it has a period of one year in which to rectify the problems revealed by the routine and extended reviews before a "final" review is held. In the interim, a "special" review may be conducted."***

* Its membership includes members from the Law Society, the SLAB, and the public (with some knowledge of quality assurance in other walks of life) (see: Sherr A., Paterson A., Professional Competence Peer Review and Quality Assurance in England and Wales and in Scotland. Alberta Law Review. 2008, 45:5: <https://www.albertalawreview.com/index.php/ALR/article/viewFile/341/338>)

** Sherr A., Paterson A., Professional Competence Peer Review and Quality Assurance in England and Wales and in Scotland. Alberta Law Review. 2008, 45:5: <https://www.albertalawreview.com/index.php/ALR/article/viewFile/341/338>

Object of the audit

Perhaps the most difficult question regarding an individual provider's assessment is what information should comprise the content of the audit. As mentioned above, the rules for auditing legal aid in some countries provide for the auditor to verify the content of the lawyer's and client's correspondence and other data constituting the lawyer's professional secrecy (lawyer-client relationship confidentiality). However, this can be a hurdle in the system of many countries, taking into account the strict requirements for confidentiality of the client-lawyer relationship.

In Table No. 6, we present the classification of audit content in accordance with the requirements of confidentiality. As you can see, a large part of the important aspects of the lawyer's activity, which is not reflected in public documents or meetings, is related to the protection of

confidentiality. Therefore, these aspects can be evaluated if this does not conflict with the law governing confidentiality in a given state.

Table No. 6. Classification of the content to be audited according to the criterion of compliance with confidentiality requirements

Elements of content to be evaluated	Sources (documents, other information) requiring legal safeguards for the protection of confidentiality and a legal requirement for collecting and storing file documents	Sources that do not require strict confidentiality or documentation requirements
<p>Quality of representation and consultation:</p> <p>An independent professional assessment of the client's situation and advice are provided that are legally accurate and appropriate, including the gathering of evidence, the use of experts, the selection of strategies, etc.</p>	<p>Lawyer and client correspondence;</p> <p>The written form of the consultation provided and its contents, the proposed strategies, the possible results of the case are documented;</p> <p>Written information about evidence and collection of experts;</p> <p>Nonofficial documents, where they contain the information protected under the confidentiality (professional secrecy) obligation;</p> <p>Confidential court hearings (observation);</p> <p>Confidential interview with the client.</p>	<p>Observation of public court hearings;</p> <p>Official documents (court decisions and public decisions of other institutions, other public procedural documents or restricted publicity documents, which may be submitted to third parties in accordance with the requirements of the protection of confidentiality in accordance with the established legal regulation;</p> <p>Information contained in formal complaints.</p>
<p>Collection and storage of information:</p> <p>whether the important advice given is recorded in writing;</p> <p>whether the cases are considered in such a way that each other lawyer can quickly find out the relevant circumstances recorded in them;</p> <p>are all relevant documents stored in the files received and sent to correspondence, including legal correspondence, judicial documents, case notes, records of meetings, and all other correspondence relating to the provision of legal aid.</p>	<p>Lawyer and client correspondence;</p> <p>Written lawyer advices, decisions made and their keeping in the file;</p> <p>Collection and storage of documents of the court and other institutions;</p> <p>Records of important meetings etc.</p>	<p>Official (public) documents.</p>

<p>Communication with the client</p> <p>Has the provider communicated with the client in a way that is clear and appropriate in the light of the client's individual situation;</p> <p>Has the provider informed the client about the progress of the case, the procedures and problems encountered, including options for resolving issues;</p> <p>Has the lawyer provided the client with appropriate and sufficiently comprehensive advice and explanations to inform the client of the decisions made in the case;</p> <p>Advised the client on significant circumstances of the case, including evidence, risks, costs, liability, merits of settlement;</p> <p>Provided written advice to the client wherever and whenever necessary;</p> <p>Has the provider provided the client with copies of important agreements, court decisions.</p>	<p>Lawyer and client correspondence;</p> <p>Records of the lawyer and the client conversations (if the requirement is established);</p> <p>Recording of lawyer's advice, decisions taken in writing;</p> <p>Interview with the client.</p>	<p>The information which is included in official complaints.</p>
<p>Compliance with financial requirements:</p> <p>Is the remuneration based on time costs, complexity of the case, etc.</p> <p>Filling financial documents in accordance with the established requirements;</p> <p>There was an unauthorised payment (non-compliance or additional payment from the client's side);</p> <p>Does the lawyer use resources efficiently, for example, with hiring experts, etc.).</p>	<p>Client and lawyer correspondence, recorded conversations, other information related to payment for services (for example, clarification to the client about compensation procedures, etc.).</p>	<p>Financial documents (invoices, financial accounting documents, etc.) not including confidential information.</p>

Duties and rights of the audited legal aid service provider

In view of national practices,³⁴ it is recommended that the following obligations be imposed on audited providers:

- Ensure that the auditor has access to all documents held by the legal aid provider regarding the subject of the audit;
- Make the best efforts to ensure that questions relating to the audit are answered in a comprehensive, honest and prompt manner, and in the form (written or oral) requested by the auditor;
- Allow and, if necessary, assist in making copies of all necessary documents or reproducing or submitting the information recorded in the documents for proper use;
- Fulfil the auditor's requirements only upon submission of an official document proving his/her right to audit.

It is recommended that auditors provide the following rights:

- Require the auditor to present documents confirming his/her authority to implement the audit;
- To inform the body responsible for the audit organisation about illegal actions of the auditor, inappropriate, unethical behaviour, as well as if there are suspicions about the possible bias of the auditor;
- To inform the auditor and the body responsible for organising the audit if there is reason to believe that the audit or certain actions may violate the requirements of confidentiality, to conflict with the

³⁴ Mostly based on New Zealand practice: <http://www.legislation.govt.nz/act/public/2011/0004/latest/whole.html>

interests of clients, is required to provide information that relates to the interests of individuals (clients) and confidential data that are not covered by the boundaries of the object being audited (e.g. the file being audited contains data about confidential third-party data, etc.).

Scoring tools

In countries where an individual lawyer's audit is applied, the assessment is based on the Likert scale.³⁵ For example, England and Wales have a scale of one to five points. The work of a lawyer in criminal proceedings is assessed according to the stages of the criminal proceedings (pre-trial investigation, trial, appeal, etc.). For each scorecard, clear criteria must be established which are taken into account when making a specific assessment. An example of the criteria is given in Table No. 7.³⁶

³⁵ See: Likert, R. (1932). A technique for the measurement of attitudes. *Archives of Psychology*, 22 140, 55.

³⁶ As can be seen, the criteria are generalised and quite abstract. Their perception is based on the knowledge and expertise of the evaluator, acquired through his/her practice and training. It is important to note that the specific content of the criteria also depends on how the lawyer's work is regulated and organised in a particular country, and what the specifics of his/her work are.

Table No. 7. The values and criteria for scores for legal aid providers' work quality in England and Wales³⁷

Score values	Score criteria
Excellence (1)	<p>Communication, advice and other work are tailored to each individual client's circumstances.</p> <p>Clients are all advised correctly and in full.</p> <p>All issues are progressed comprehensively, appropriately and efficiently.</p> <p>There is a demonstration of in-depth knowledge and appreciation of the wider context.</p> <p>There is excellent use of tactics and strategies, demonstrating skill and expertise, in an attempt to ensure the best outcomes for clients.</p> <p>The provider adds value to their cases, taking a fully proactive approach.</p> <p>There are no areas for major improvement.</p>
Competence Plus (2)	<p>Clients' instructions are appropriately recorded.</p> <p>Advice and work are tailored to the individual client's circumstances.</p> <p>Clients are advised correctly and in full.</p> <p>Issues are progressed comprehensively, appropriately and efficiently.</p> <p>Tactics and strategies are employed to achieve the best outcomes for clients.</p> <p>The provider adds value to cases and takes a proactive approach.</p>
Threshold Competence (3)	<p>Clients' instructions are appropriately recorded.</p> <p>There is adequate but limited communication with the client.</p> <p>The advice and work are adequate although it may not always be extensive and may not deal with other linked issues other than the presenting issue.</p> <p>There may be areas that the provider will need to address in order to progress towards Competence Plus (2) or Excellence (1).</p>

³⁷ Independent Peer Review Process Document. Legal Aid Agency. 2017: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620110/independent-peer-review-process-guidance.pdf

Below Competence (4)	<p>Information is not being recorded or reported accurately.</p> <p>Communication with the client is sometimes of poor quality.</p> <p>The advice and other work are inadequate.</p> <p>Some cases are not being conducted with reasonable skill, care and diligence.</p> <p>The timeliness of the communication, the advice or other work is sometimes inadequate.</p> <p>There are lapses below the required standard.</p>
Failure in Performance (5)	<p>Information is not being recorded or reported accurately. Communication with clients is often of poor quality.</p> <p>Cases, in general, are not being conducted with reasonable skill, care, and diligence.</p> <p>The timeliness of the communication, the advice or work is often inadequate.</p> <p>There is a detrimental service to clients, or there is no meaningful service at all, or there is a service that leads to potential prejudice against the client.</p>

Consequences of individual assessment of providers

The main objective of the evaluation is to ensure and improve the quality of legal aid. Consequently, the deficiencies identified should not, in the first place, be seen as a basis for disciplinary punishment, but as an opportunity to improve the quality of the lawyer’s work.

Against this background, it is recommended that:

- Providers for which deficiencies or violations are detected for the first time are exempted from disciplinary liability sanctions, while providing guidance on aspects of the business to be refined, indicating a reasonable deadline for remedying operational shortcomings (except for particularly serious violations of law or ethics);
- After a reasonable period, a re-audit may be carried out to assess whether deficiencies have been corrected;

- Advice given to lawyers should relate to identified operational shortcomings and aim both to remedy these shortcomings and to improve the qualifications of lawyers such as offering training or other qualification enhancement measures, etc.;
- It is expedient to carry out an analysis of the audit data in order to improve the quality of the activities of providers (for example, to identify the necessary training needs, to improve supervisory mechanisms, to develop activity improvement plans and strategies, etc.).

Table No. 8. Tools for the evaluation of individual providers, their strengths and weaknesses

Evaluation tool	Advantages	Shortcomings
Audits (peer review)	<p>A detailed and in-depth assessment of the activities of lawyers is carried out, based on established objective (usually scientifically valid) criteria and methods.</p> <p>The instrument is seen as a lesser intervention in the independence of lawyers than in audits carried out by public authorities.</p> <p>The assessment is carried out by highly qualified auditors (lawyers).</p> <p>The audits result in recommendations (feedback) aimed at improving the activity of an individual lawyer in the provision of legal aid.</p> <p>The primary objective is not to punish the lawyers but to help them to improve the quality of the activity.</p>	<p>Depending on specific national context, there could be a risk of breach of the confidentiality of the relationship between the lawyer and the client, and independence and the lawyer.</p> <p>It requires considerable investment, as it is necessary to ensure both the intensive training, remuneration of auditors and administrative costs.</p> <p>For a complete audit, it is necessary to have a complete lawyer's documentation on the progress of the case, client counselling, etc. In countries, where there is no requirement for lawyers to collect and store documents, this may be a significant obstacle to the effective use of audits.</p> <p>In cases where the peer review is organised by a public authority administering legal aid, there is a risk of partiality and the risk of intervention in the independence of lawyers. In this context, it is necessary to provide mechanisms for (1) the involvement of the Bar in the decision-making process on auditing, selection of peer reviewers and audited cases; (2) establish objective and transparent criteria for the selection of peer reviewers and audited cases and other significant audit procedures.</p>

Observation	<p>May be applied in systems where individual audits are difficult to apply, taking into account the strict requirements of the independence and confidentiality of lawyers.</p>	<p>Applies only to court hearings.</p> <p>Court hearings are often delayed, which may complicate the organisation and implementation of monitoring.</p> <p>Limited subject – only information available during court hearings can be evaluated.</p> <p>A lawyer, being aware that he is being monitored, may change his/her behaviour, which does not necessarily correspond to his/her routine work.</p>
Analysis of documents containing information on the legal aid provider's activities (e.g. complaints prepared by a lawyer, records of court hearings, etc.)	<p>Normally does not conflict with client-lawyer relation confidentiality and professional secrecy requirements.</p> <p>Usually an easily accessible source.</p>	<p>Limited subject of evaluation: there is no available information related to the important aspects of the work of the lawyer, advice given to the client, communication with the client, etc.</p>
Analysis of complaints and their processing information	<p>Information within the scope of the complaint is generally not in conflict with the requirements of confidentiality or professional secrecy when it is analysed by the Bar.</p> <p>It is an indicator that can be used as a criterion for the selection of audit cases.</p>	<p>Limited data: only the contents of the complaint can be evaluated.</p> <p>There is a subjectivity of complaint content.</p> <p>Seeking the objectivity of the assessment, complaint analysis should be used in conjunction with other instruments (e.g. analysis of official documents, monitoring).</p>

Interviews with clients	An important source of information to identify customer satisfaction issues related to the work of a lawyer.	<p>A subjective opinion is obtained, which mainly reflects information about the behaviour and communication of the lawyer.</p> <p>There is a limited information on professional-legal aspects of quality of work.</p> <p>The risk of subjectivity and partiality of information, especially in cases of client and lawyer conflicts (for example, not all conflicts with clients are related to the lawyer's poor work).</p> <p>Should be used in conjunction with other assessment tools or as an audit method.</p>
Legal aid providers (lawyers) self-assessment	<p>It can be useful:</p> <p>(1) as an individual tool for legal aid provider's (lawyer's) assessment seeking to improve their quality of work;</p> <p>(2) to compare the results of self-evaluation with the evaluation data provided by the clients.</p>	There is a risk of subjectivity and lack of honesty.



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