

Evaluation Report

on

**Area of Intervention 6.4
Increased Efficiency
and Effectiveness of the Legal Aid System
and**

**Improved Management; 6.5
Quality Enhancement and Quality Control
for Provision of Legal Aid**

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International Expert

Myroslav Lavrinok
National Expert

September 2019
Kyiv



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INTRODUCTION

The Report has been developed as a part of the overall JSRSAP evaluation exercise by the team of PJ experts with the support of the project team and concerns the results of an assessment carried out by Mr. Agris Batalauskis¹ acting as international experts and Mr. Myroslav Lavrinok² as national expert. It has been conducted in accordance with the tailored, evaluation area(s) specific methodology.³

The aim was to carry out a mid-term evaluation of the following JSRSAP areas of intervention:

- 6.4 Increased Efficiency and Effectiveness of the Legal Aid System and Improved Management;
- 6.5 Quality Enhancement and Quality Control for Provision of Legal Aid and ensure a better implementation of the policy interventions concerned.⁴

The scope of the evaluation exercise is limited to the previously mentioned JSRSAP areas and it covers free legal aid in civil, administrative and criminal matter.

The Report has benefited from the intensive co-operation extended by the Ministry of Justice, Coordination Centre for Legal Aid Provision, Ombudsman, Supreme Court, Ukraine National Bar Association, Canadian government funded project “Quality and Accessible Legal Aid in Ukraine”, Civil society organizations, like, Ukrainian Legal Aid Foundation, Legal Development Network, Ukrainian Helsinki Human Rights Union, International Renaissance Foundation.

The mid-term evaluations were carried out under the uniform methodology, taking into account the Progress Review Methodology approach, itemising the JSRSAP 6.4. and 6.5. outcome indicators. The range of the assessment methods include desk research, analysis of third-party reports (including of domestic and international monitoring mechanisms), structured or semi-structured interviews, panel discussions and round table discussions.

As a result of JSRSAP evaluation exercise by the team of PJ experts, in the mid-term evaluation report the expert team has underlined key points, important findings and observations. In addition to that, the expert team has also deliberated and developed short-term and mid-term recommendations based on relevant findings and recapitulated them at the end of the Report.

¹ Mr Agris Batalauskis, is a qualified Latvian lawyer and senior civil servant who has worked in the governmental authorities since 2007. More than 12 years of professional experience (senior civil servant) in the justice sector, more specifically area of free legal aid, further development of the national free legal aid systems, free legal aid in cross-border disputes (have been the national contact point), national free legal aid information systems (development of the state ensured legal aid register), free legal aid quality assurance mechanisms, policy drafting etc. Mr Batalauskis has extensive expertise also in international cooperation in the field of legal aid, including professional experience for more than 5 years working as expert in international development projects in the areas related to free legal aid, international legal cooperation, free legal professions, judiciary (Latvia, Netherlands, Finland, Scotland, Sweden, Norway, France, Ukraine, North Macedonia, Moldova, China).

In addition, Mr Batalauskis has significant experience in working /negotiating with the EU institutions, including the Commission, presenting Latvian position in the Council of the EU working groups, as well as from 2017 has been working with Council of Europe within the free legal aid area, including chairing and vice-chairing CDCJ Working Groups.

² Myroslav Lavrinok is a Ukrainian lawyer, consultant for international technical assistance projects. From 2012 to 2017 – First Deputy Director of the CCLAP. From 2002 to 2012 he worked in the Ministry of Justice of Ukraine, specialising on law drafting and legal expertise in the area of constitutional and administrative law.

³ See the assessment-specific activities Matrix attached.

⁴ See the relevant extract from JSRSAP attached.



ABBREVIATIONS

CCLAP	Coordination Centre for Legal Aid Provision
CEPEJ	European Commission for the Efficiency of Justice
CMU	Cabinet of Ministers of Ukraine
CSO	Civil society organizations
ECHR	European Convention on Human Rights
EU	European Union
FLA	Free Legal Aid
FPLA	Free Primary Legal Aid
FSLA	Free Secondary Legal Aid
GDP	Gross domestic product
HEI	High educational institutions
IIAS	Integrated Information/Analytical System for FLA support
IRF	International Renaissance Foundation
JSRS	Justice Sector Reform Strategy
JSRSAP	Justice Sector Reform Strategy Action Plan of Ukraine for 2015-2020
Law on FLA	Law of Ukraine “On Free Legal Aid”
LDN	Legal Development Network
MDJ	Main Division of Justice
MoF	Ministry of Finance of Ukraine
MoJ	Ministry of Justice of Ukraine
MT	JSRSAP monitoring tool
MoU	Memorandum of Understanding
NBC	National Bar Council (Bar Council of Ukraine)
NPM	National Preventive Mechanism
PJ	EU funded Project Support to Justice-related Reforms in Ukraine (PRAVO-JUSTICE)
QALA	Quality and Accessible Legal Aid Ukraine Project
RBC	Regional Bar Council
ToT	Training of trainers
UHHRU	Ukrainian Helsinki Human Rights Union
ULAF	Ukrainian Legal Aid Foundation
UNBA	Ukrainian National Bar Association
USAID FAIR	The FAIR Justice Project of USAID



BASELINE

The Chapter outlines the overall state of affairs with regard to the area under consideration prior to the adoption of JSRSAP.

1. In May 2015 the President of Ukraine approved the JSRS (Presidential Decree No. 276 of May 20, 2015). Therefore, for the purposes of this mid-term evaluation report, May 2015 has been chosen as the baseline, when the overview/overall state of affairs of the FLA system in Ukraine should be outlined.
2. With the Law on FLA in June 2011 the Government of Ukraine made the first and most important step towards establishing a FLA system, which would be committed to protect the rights of marginalized persons in Ukraine and to improve their access to justice through the provision of FLA. What must be underlined, is that the Law on FLA also clearly foresees a step by step implementation process for the FLA system.
3. On May 2015, according to the regulations in the Law on FLA, the FLA system ensures primary and secondary legal aid and formally consisted of the following stakeholders: MoJ, CCLAP, Regional FSLA centres, Local FSLA centres, FPLA providers, FSLA providers.
4. Regarding the FPLA MoJ had a general managerial role in the establishment and operation of FPLA. The MoJ was also responsible for the provision of methodological support to executive bodies and local authorities regarding the provision of FPLA.
5. Regarding the FSLA MoJ had a general managerial role in the establishment and operation of FSLA.
6. In addition, MoJ was responsible for the following:
 - ensure coordination of the activities of the central bodies of executive power in the implementation of the state policy in the field of providing FLA;
 - implementation and functioning of the system of FSLA;
 - establish centres for the provision of FSLA;
 - submit to the CMU draft laws and other legal acts in the field of providing FLA;
 - provide methodological assistance to the executive and local self-government bodies on issues related to the provision of FPLA;
 - establish the procedure for keeping the Register of advocates providing FSLA by the CCLAP;
 - provide competitions to the MDJ in the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol in order to attract advocates to provide FSLA;
 - analyse the practice of application of this Law on FLA;
 - approve quality standards for the provision of FLA;
 - cooperate with the central executive authorities on the implementation of this Law on FLA;
 - approve the standards for the provision of FLA to responsible institutions;
 - approve the procedure and criteria for the involvement of local self-government bodies by private bodies of private law to the provision of FPLA;
 - approve the regulations for regional FSLA centres;



- perform other functions in the sphere of providing FLA, established by the Law on FLA and international treaties of Ukraine.
7. The **CCLAP** performed the responsibilities of the MoJ in the field of FLA, in particular the development and implementation of an effective system of FLA in Ukraine and ensuring its accessibility and quality.
 8. Regarding the FPLA CCLAP was responsible for ensuring the provision of consultative and methodological assistance to local government bodies as providers of FPLA.
 9. Regarding the FSLA CCLAP was coordinating provision of FSLA in Ukraine, including the appointment of FSLA centres' directors and deputy directors, the assessment of their performance; FSLA centres' budgets and the approval of centres' organizational structures, etc.
 10. In addition, CCLAP was responsible for the following:
 - analysis of the implementation of the legislation on FLA;
 - submission of proposals on public policy development and implementation in the area of FLA for the consideration of the MoJ; etc.
 - developing and submitting to the MoJ quality standards for the provision of FLA;
 - managing the system of FSLA;
 - coordination of the activities of specialized institutions for the provision of FPLA;
 - formation and maintenance of the Register of advocates providing FSLA in due course;
 - ensuring the functioning and development of a comprehensive information and analytical system for providing FLA;
 - organization of training of advocates who provide FSLA.
 11. There were also **25 regional FSLA centres** across Ukraine, which act as territorial units of CCLAP to provide FSLA aid in criminal cases and for persons sentenced to imprisonment, service in a penal military unit, or restriction of liberty. Due to the temporary occupation of part of the territory of Ukraine by the Russian Federation, the regional centres in the Autonomous Republic of Crimea and Sevastopol were not operational.
 12. Regional FSLA centres were responsible for the following:
 - appoint defence advocate in pretrial investigations and court trials in cases where pursuant to the Criminal Procedure Code of Ukraine, a defence advocate is appointed by an investigator, public prosecutor, investigating judge, or court to participate by designation or in a single procedure, in cases of detention or preventive custody of an individual, during hearings of cases on administrative offenses, as well as in cases where FSLA is provided to a person in criminal proceedings pursuant to a court order to extend, modify, or revoke a compulsory medical treatment order, proceedings in connection with turnover (extradition) of individuals, or in court hearings during execution of sentences pursuant to Article 537 of the Criminal Procedure Code of Ukraine;
 - appoint defence advocate, who can prepare procedural documents, and represent persons sentenced to imprisonment, service in a penal military unit, or restriction of liberty, at the request of such persons or pursuant to a court order, before courts, other government agencies, local self-government agencies, and other persons;
 - sign contracts with advocates registered as FSLA providers;



- receive and register reports of cases of detention of individuals, and orders/interim orders by an investigator, public prosecutor, investigating judge, or court to appoint a defence advocate to participate by designation or in a single procedure pursuant to the provisions of the Criminal Procedure Code of Ukraine;
 - give and revoke assignments to advocates to provide FSLA services to eligible persons as specified by paragraphs 3–7 of part one of Article 14 of the Law;
 - make decisions to substitute advocates assigned by the regional FSLA centre, or terminate provision of FSLA services altogether in cases specified by the Law on FLA and the Criminal Procedure Code of Ukraine, as well as deny FSLA services in cases provided for by the Law on FLA;
 - provide payment of fees and compensation of expenses of advocates providing FSLA services;
 - monitor advocates for compliance with quality standards for FLA services;
 - arrange for advanced training of advocates providing FSLA services;
 - request that the CCLAP remove an advocate from the Register of FSLA providers;
 - consolidate, analyse, and disseminate the best practices in the provision of FSLA services;
 - arrange for assessment of the needs and satisfaction of FSLA applicants and clients;
 - submit quarterly and yearly reports on their activities to the CCLAP;
 - collect, consolidate, and analyse statistical data on FSLA services provided.
13. In connection with establishment of local FSLA centres (from 1 July 2015), the regional FSLA centres were held responsible for direct, coordinate, and supervise activities of local FSLA centres, monitoring the availability of FSLA provided by local FSLA centres, providing payment of fees and compensation of expenses of advocates assigned by local FSLA centres, etc.
14. There were **100 local FSLA centres** established across Ukraine, but until 1 July 2015 they were not fully operations. Since 1 of July 2015 these local FSLA centres in practice started to function and ensure the provision of FSLA in civil and administrative cases.
15. Local FSLA centres were responsible for the following:
- consider applications for FSLA services and verify their eligibility;
 - explain the provisions of the legislation on FSLA services and procedures for receiving such aid;
 - decide on whether to provide or refuse the provision of FSLA services;
 - decide to terminate the provision of FSLA services;
 - appoint and terminate appointment of advocates to provide FSLA services to eligible persons as specified by paragraphs 1,2, 8-12 of part one of Article 14 of the Law on FLA;
 - certify document, which authorises the appointed FSLA advocates right to represent FSLA beneficiary;
 - decide to substitute appointed advocates in cases specified by the Law;

³ Report, Introduction of Probation in Ukraine, Danish Helsinki Committee for Human Rights, 2015



- administer payment of fees and compensation of expenses of advocates providing FSLA services;
 - arrange trainings of advocates providing FSLA services;
 - cooperate with FPLA providers, coordinate their activities in respective territories, provide advice and methodological support to local self-government agencies in relation to setting up specialized FPLA institutions and engaging natural persons and legal persons in providing FPLA services;
 - consolidate, analyse, and disseminate the best practices in the provision of LA services;
 - collect, consolidate, and analyse statistical data on FSLA services provided;
 - arrange for assessment of the needs and satisfaction of FSLA applicants and clients.
16. In addition to the previously mentioned FLA system stakeholder, a more or less significant roles were played by the **external stakeholders**: UNBA; Ombudsman; Civil Society and NGOs; Legal Clinics; international donors.
 17. The **UNBA** is a non-governmental, non-profit professional organization aimed at ensuring the implementation of lawyers-attorneys' self-governance. Membership in the UNBA is mandatory for all certified Ukrainian advocates upon taking the oath of an advocate. According to its official register, the UNBA has approximately 30,000 registered members at the beginning of 2015.
 18. The UNBA is a legal entity, which acts through different forms of bar self-governance. The UNBA organises, coordinates and ensures activities of the bar's self-government bodies, identified in the Law "On Bar and Advocates Activities").
 19. The MoJ and the UNBA on 19 December 2013 had already concluded a Memorandum of Cooperation, wherein the UNBA commits to share information; comply with guarantees of advocates activities and the protection of their professional rights; develop and implement standards of quality for FLA provision; monitor and evaluate the quality of FLA provision; and the upgrading of qualifications (training and development) of advocates. The Memorandum foresaw, that the NBC, an implementing body of the UNBA, and CCLAP are responsible for the implementation of this Memorandum.
 20. **The Ombudsman** is an independent player in the system of human rights protection, especially in the context of criminal proceedings and combating torture. The Ombudsman may oversee the activities of officials from all state authorities and local self-governments, as well as judges (i.e. violations of the terms of case consideration and compliance with procedural standards).
 21. On 10 December 2013 a Memorandum of Cooperation was signed between the CCLAP and the Ombudsman envisaging collaboration between the two institutions in monitoring FSLA, identifying systematic violations, its reasons and impacts; the drafting of proposals for executive and local-self-government bodies for the prevention of such cases; the drafting other laws and regulations in the field; cooperation with NGOs in the identification of best practices; the organization of joint events to increase public awareness on human rights and the right to FLA (the same Memorandum was amended on 12 December 2014).
 22. The National Preventive Mechanism against Tortures (NPM) was established under the Ombudsman, and Ombudsman is responsible for coordination and management



of the NPM system. The NPM acts according to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Under the NPM monitoring with respect to human rights in places of detention is conducted - scheduled and ad hoc monitoring visits to places of detention for the prevention of ill-treatment. Representatives from the regional FSLA centres also can take part in the NPM monitoring visits.

23. **Civil Society and NGOs** are very important external stakeholder of the FLA system. The main The Ukrainian Legal Aid Foundation (ULAF), Ukrainian Helsinki Human Rights Union (UHHRU), Centre for Political and Legal Reforms (CPLR), Open Civic Platform on Development of the Ukrainian Free Legal Aid System (Civic Platform), International Renaissance Foundation (IRF), Legal Development Network (LDN). Already before May 2015 the CCLAP was working towards a closer cooperation with Civil Society and therefore on 11 October 2012 a Memorandum of Understanding was signed between the CCLAP and the IRF and the ULAF. The Memoranda provided for long-term programmatic cooperation across broad lines of activity.
24. **Legal Clinics:** the operations of legal clinics were regulated by the Ministry of Education (i.e. Typical Regulation on Legal Clinics, Ethical Code, etc.), and their activities were not standardized, many of them fall outside the system as not all of them represent a structural unit of relevant higher education institutions. The outreach of the clinics was rather limited, and their activities were often interrupted due to summer breaks. Legal clinics did not collect data on the services they provide.
25. **International donors:** until May 2015, Council of Europe has been involved in the FLA system and the capacity building of main actors within the criminal justice system, i.e. investigators and judges.
26. EU Project "Support to Justice Sector Reforms in Ukraine" worked with the Ukrainian National Bar Association. They had a series of strategic planning workshops which would identify and set the stage for the implementation of legal and procedural measures that make penal proceedings more adversarial.
27. On July 5, 2014, a Memorandum of Understanding was also concluded between the CCLAP and the Canadian Bureau of International Education in context of the QALA Project. This Memorandum foresaw a long-term programmatic cooperation across broad lines of different activities.
28. In accordance with the Law on FLA **FPLA could have been provided** by executive authorities, local self-government bodies, natural persons and legal persons, specialized institutions.
29. It should be underlined that until 1 July 2015, the provision of FPLA by the previously mentions FLA system stakeholders was not coordinated by CCLAP.
30. The only **FSLA providers** until May 2015 were advocates which were included in the Register of advocates providing FSLA.
31. Advocates were engaged in the FSLA system based on a competitive selection procedure. This procedure was established and approved by the Regulation of the CMU "On Approval of the Procedures, Terms of Competition and Qualification Requirements to Advocates to Provide FSLA" No. 1362 (dated December 2, 2011) and is complimented by the Order of the MoJ "On Approval the Forms of Documents Used during the Competition for FSLA Advocates Selection" No. 1520/5 (dated October 15, 2012). Competi-



tions were initiated by the CCLAP based upon the regional FSLA centres' assessment about the emerging need. CCLAP submits a request to the MoJ providing rationale for the need for a given competition for the selection of additional advocates, including a proposed schedule for the competition process. The MoJ announces a competition and approves the proposed list of questions for the written test, which is standardized for use across Ukraine and is kept confidential until the time of administration of the test.

32. In each oblast, the MDJ published an announcement for the competition according to the approved schedule in local media no later than 30 days prior to application submission deadline and establishes a selection commission, which was responsible for conducting the competition. The selection commission had to consist of a minimum of 7 members, including the positions of head and secretary (filled by representatives from the MDJ). Additional selection commission membership consisted of representatives of the MoJ, the CCLAP, representatives of the UNBA, judges and CSOs from relevant region/oblast. Aggregated data on composition of the selection commissions across oblasts was available on the CCLAP website. Commission members were engaged on a voluntary basis. Members of the commission were required to sign a statement certifying that there is no conflict of interest in them taking up their responsibility on the commission and, further they must sign a statement committing to the non-disclosure of competition information.
33. Advocates had to submit their applications to MDJ (oblast/region level) and Division of Justice in counties, cities, etc. (local level) who are required to forward the documents to the MDJ within 2 days of their receipt. The MDJ was required to register all applications and to conduct a preliminary document review to verify applicants' compliance with the competition qualification requirements.
34. The competition for the selection of advocates to provide FSLA was organised in three stages:
 - document review,
 - an anonymous written test;
 - an interview.
35. After the completion of the third stage of the competition, a list of candidates who achieved the required minimum overall score was compiled and it had to be submitted within a two-day period to the MDJ. Based upon the results of the competition, the MDJ was required in a one-week time frame to add the names of the candidates into a local registry of FSLA advocates. This local registry of FSLA advocates was then submitted to CCLAP, and the regional FSLA centres subsequently formalize the engagement - signing the contracts with advocates (by Regulation of the CMU "On Approval of the Procedure and Terms for Conclusion of Contracts with Advocates Providing FSLA on a Permanent basis and Contract-Agreements with Advocates Providing FSLA on an Ad Hoc Basis" No. 8 (dated January 11, 2012)). It is at the discretion of individual advocates to determine whether they choose to provide FSLA on a permanent/regular or ad hoc basis going forward.
36. These FSLA advocates are not staff of FSLA centres rather private advocates contracted to provide FSLA on a permanent/regular and/or temporary basis. As such, they are subject to the same regulations and norms as all other advocates in Ukraine.

37. Regarding the remuneration of FSLA advocates on September 17, 2014 a new Regulation of the CMU “On Issues of Remuneration for FSLA Services Provided” No. 465 was adopted. In general, there are 3 groups of cases, which qualify for remuneration:
- administrative detention, early stage (detention) of a criminal case, and separate procedural action in criminal proceedings. The regulations specify a formula-based approach for each type of case considering the complexity of an individual case and activities undertaken by an advocate, simultaneously considering specific circumstances, like, administrative arrest; proceedings concerning enforcement, prolongation or cancel of medical aid provision to person; actions on deportation);
 - defence on assignment in further stages of a criminal proceeding (pre-trial investigation, court of 1st instance, appeal court, cassation court). The basis for payment is 2,5% of the minimal wage multiplied by 20 hours (estimated time spent by an advocate for an separate stage of a criminal proceeding), and in addition, multiplied by three indexes: the particularities of criminal proceeding stage (completeness of advocate’s participation in the criminal proceeding, termination of advocate’s participation, etc.), complexity of a given case (gravity of offence, number of episodes, number of suspects, preventive measure, etc.) and special difficult cases (appeals against actions or decisions). Each of the mentioned indexes includes a dozen sub-indices. Payment is calculated for each completed stage of a criminal case. Regulation No. 465 supplements this approach with an additional index considering 10 additional salary factors which will allow for a considerable increase in advocate’s fees;
 - administrative and civil cases. The approach is based upon a specified percentage of the minimal wage depending upon an advocate’s actions as follows:
 - case analysis, facts collecting – 15%;
 - suit or counterclaim, or appeal, or application for case review in the Supreme Court of Ukraine drafting – 20%;
 - other procedural document drafting – 15%;
 - participation in trial: within the district where the order was issued to an advocate – 10% per trial; out of the district where the order was issued to an advocate – 20% per trial; out of the region where the order was issued to an advocate – 60% per trial.
38. For all types of cases there is a special index for the provision of FSLA to clients who have an infection disease, as well as to cover transportation costs (public transport) and fuel for personal car (in case if public transport is unavailable or in rural areas), and secondments outwards region of order issuing (fees, hotel).
39. In context of **FLA scope**, it should be underlined that in practice, synergies and cooperation networks were well established between the CCLAP, the regional FSLA centres and the advocates included in the Register of advocates providing FSLA. What must be pointed out is that FPLA was not provided by these CCLAP, regional FSLA centres and advocates, instead they provided FSLA in criminal cases. In addition, FSLA was also provided in civil and administrative matters to persons sentenced to imprisonment or persons in a penal military unit.
40. The following eligibility criteria for free primary and secondary legal aid were outlined in the Ukrainian legislation:
- FPLA: the right to FPLA is ensured to all individuals (citizens of Ukraine, foreigners, stateless persons, refugees) regardless of their social/financial status.



- FSLA: the right to FSLA is foreseen and ensured by regional FSLA centre in criminal cases to the following individuals regardless of their social/financial status:
 - individuals subject to administrative detention or administrative arrest;
 - detainees who are suspected of and charged with a crime;
 - persons in preventive custody; and
 - persons in criminal proceedings where, pursuant to the provisions of the Criminal Procedure Code of Ukraine, a defence advocate was appointed by an investigator, public prosecutor, investigating judge, or court to participate by designation or in a single procedure;
 - persons sentenced to imprisonment or persons in a penal military unit.
- 41. Criminal Procedure Code foresees the conditions for FSLA/mandatory defence in serious criminal proceedings (crimes of a grave severity). The participation of a defence advocate is ensured and obligatory from the time when a person is identified as a suspect and it applies to the certain categories of persons:
 - persons under 18 years and who is suspected or charged of a criminal offence;
 - persons subject to enforced correctional measures;
 - persons incapable of fully exercising their rights due to mental or physical disabilities (muteness, deafness, visual impairments etc.);
 - persons not proficient in the language of the criminal proceedings;
 - persons under or pending a compulsory medical treatment order, after a person has been found to have a mental illness or other information has been revealed calling into question a person's sanity;
 - rehabilitation of deceased persons.
- 42. FSLA in criminal cases was provided to these individuals by an advocate, who had a contract with the regional CCLAP centre to provide legal assistance in an unspecified number of cases during the budget year or to complete proceedings or cases or a contract to provide legal assistance to a specific person in the event that the centre was not able to involve an advocate with whom the regional CCLAP centre already had a contract. All of these advocates were included in the corresponding register of advocates providing FSLA, that was formed based on the results of a competitions for the selection of advocates. The advocates exercised their authority in proceedings / cases based on assignments issued by the regional CCLAP centre in each case.
- 43. FSLA in civil and administrative matters to groups of persons that are foreseen in the Law on FLA in practice lunched after May 2015, when the JSRSAP was already approved. The aim then was to lunched FSLA in civil and administrative cases so that it would cover most of the vulnerable population of Ukraine. Therefore, in addition to persons sentenced to imprisonment or persons in a penal military unit, who already had access to FSLA in civil and administrative cases, after July 2015 the following groups of persons were also eligible for FSLA in civil and administrative cases according to the Law on FLA:
 - Individuals under the jurisdiction of Ukraine if the average monthly income of their families is lower than the minimum subsistence;
 - Disabled persons whose pension is less than two minimum subsistence levels for the disabled;

- Orphaned children, children whose parents lost their parental rights, and children that may become or have become victims of domestic violence;
 - Individuals related to the Law of Ukraine On Refugees;
 - War veterans and individuals indicates in the Law of Ukraine “On the Status of War Veterans and Guarantees of their Social Protection”, individuals with special merits, those who have rendered special labour services to the country, and victims of Nazi persecution;
 - Individuals in relation to whom the court is considering restriction of one’s civil capability, recognition of an individual as incapable, and recovery of person’s civil capability;
 - Individuals in relation to whom the court is considering rendering forced psychiatric care;
 - Individuals rehabilitated in accordance with the legislation of Ukraine.
44. Until May 2015 the system for **quality management of FSLA in the criminal process** was set up and operating within the FLA system.
45. At the core of the system, there were the quality standards for FSLA in the Criminal Process approved by the MoJ Decree No. 368/5 “On Approval of the Quality Standards for FSLA in the Criminal Process” dated 25 February 2014, which came into force on 1 July, 2014.
46. The Quality Standards were developed by a working group consisting of advocates and approved by the NBC (pursuant to the Memorandum of Cooperation between the UNBA and the MoJ). In the Memorandum both parties agreed also to jointly develop the quality standards for FSLA in civil and administrative cases in the future.
47. The purpose of the Quality Standards was to ensure timely provision of FSLA, methodological support for advocates and their professional development, and most efficient use of public funds. The Standards provide a list of steps to be taken by an advocate at every phase of a criminal proceedings. These requirements are binding for advocates providing FSLA. For all other advocates, the standards serve as guidelines. The standards are prescriptive and refer to relevant sources of law (including the case law of the ECHR) and other laws and regulations. The CCLAP encourages advocates to give their recommendations for improving the quality standards.
48. Another important step from the CCLAP side was to establish the Legal Aid Quality Assurance Division, which function was to coordinate the quality monitoring of FLA across the entire FLA system.
49. The internal procedure foresaw, that regional FSLA centres are obligated to monitor the quality of services provided by the FSLA advocates in their region. Departments for legal aid quality assurance and professional development of advocates were established at every regional FSLA centre, and the procedure, standards, regulations for this departments were approved by the CCLAP order No. 151, “On Approval of the Standard Regulations on Structural Units of Regional FSLA Centres” dated 12 May 2015.
50. Heads of such Departments for legal aid quality assurance and professional development of advocates were also known as quality managers. Quality managers were selected from among the advocates and majority of them previously were providing FSLA within the FSLA system. To prevent conflict of interest, the advocates formerly engaged in the provision of FSLA before becoming quality managers stopped provid-



ing FSLA, but nevertheless they could continue working as private sector advocates.

51. Quality managers had the following responsibilities:
- monitoring the compliance of advocates with the FLA quality standards, particularly for future assessment, under the established procedure, of the quality, completeness, and timeliness of FSLA services provided by lawyers;
 - arranging for professional development of advocates providing FSLA;
 - consolidation, analysis, and sharing of the best practices in the practice of law;
 - analysis of the level of satisfaction of FSLA beneficiaries with the quality of such aid.
52. On 1 April 2015 the CCLAP issued the Order No. 135 “On Approval of the Procedure for FSLA Centres to Make Requests to Commissions for Assessing the Quality, Completeness, and Timeliness of FSLA Services Provided by Advocates”, which formalized the mechanism for assessing the quality, completeness, and timeliness of FSLA services provided by advocates. Pursuant to the Law of Ukraine “On the Bar and the Practice of Law”, such assessment may only be carried out by respective regional councils of the bar which set up commissions to assess the quality, completeness, and timeliness of LA services provided by advocates.
53. Pursuant to the CCLAP Order No. 135 dated 1 April 2015, a FSLA centre could make a request to the respective quality assurance commission in the following cases:
- In the case of a complaint against an advocate claiming inadequate defence services (low-quality, incomplete, or delayed aid provided by an advocate assigned by a centre) which falls outside the scope of the centre’s competence;
 - Where there is reasonable concern for low-quality, incomplete, or delayed FSLA provided by an advocate assigned by a centre;
 - Upon instruction from the CCLAP.
54. With the CCLAP Order No. 136 dated 6 April 2015, the following types of monitoring of advocates for compliance with the quality standards for FSLA in the criminal process was established:
- Monitoring of judicial proceedings in courts of first instance and courts of appeals by means of:
 - Observation of an advocate’s work in court,
 - Interviewing a client, subject to written consent of the latter only (of which an advocate must be duly notified), (relevant monitoring forms include the observation and interview findings and the client’s consent to an interview).
 - Monitoring of information provided by an advocate (to verify the information provided by advocates for accuracy ensuring compliance with the quality standards for FSLA in the criminal process) in cases where FSLA was provided to:
 - Persons under the age of 18 suspected of or charged with committing a crime;
 - Persons incapable of exercising their right to counsel independently due to physical or mental disability (i.e. mute, deaf, visually impaired etc.);
 - Persons who are not proficient in the language of the criminal proceedings;
 - Persons eligible for FSLA from one advocate during the current budget period in the respective district (district-level city).

- Anonymous surveying of clients and FSLA advocates (to improve the quality of FSLA and have continuous feedback from FSLA beneficiaries and persons entitled to FSLA), introduced on 1 May 2015, and conducted twice a year (1 April and 1 October).
55. Also pursuant to this Order, quality managers had the task to consolidate and disseminate relevant case studies and best practices.
56. **In context of IT tools** for the FLA system until May 2015 the main focus was directed towards the IIAS, which is a tool intended to facilitate the operation and management of the FLA system and serve as the basis for all key processes and procedures, including requests for FSLA from competent institutions, human resource management (including contracts with advocates), monitoring and distribution of cases and workload among FSLA advocates, compensation of their expenses, etc. Proper operation of the IIAS would allow for a better transparency and accountability of the FSLA system, facilitate quality control of legal aid services and general oversight by the CCLAP, as well as timely and comprehensive public reporting, ensure the LA system's high analytical capacity for promptly responding to the needs of clients and problems and disproportionate developments within the system.
57. The need to develop the IIAS was highlighted in the State Targeted Program for Establishing a System of FLA for the Years 2013-2017 (CMU Regulation No. 394, dated February 13, 2013).
58. It was defined that a fully developed IIAS system would help automate the majority of processes and procedures within the FLA system, ensure effective cooperation between stakeholders engaged in provision of FLA, and serve as the key instrument in facilitating efficient and sustainable management and operation of the FLA system.
59. In 2012, UAH 2.2 million were allocated from the state budget for the development of the IIAS to ensure its basic functionality required for launching the FLA system. That initial funding had helped to launch the IIAS on 1 January 2013, simultaneously with the launch of the entire FLA system, including the following elements:
- a network of 165 automated workplaces (desktop/laptop computers, 30 at the CCLAP and 135 at regional FSLA centres (5 at each centre);
 - a VoIP (Voice over Internet Protocol) network (a dual core processor VoIP server with limited functionality, 165 phone systems, and additional software);
 - basic specialized software (that supports registration of reports, issuance and monitoring of assignments, registers of advocates providing legal aid, and associated databases) and a web interface operated by a dual core processor server.
60. The development of the following IIAS/LAIAS components was planned for in 2013 (with an initial budget of UAH 15,700 thousand):
- establishing a data centre for centralized data processing and storage using data backup hardware and technologies;
 - setting up a hybrid telephone network connecting all regional FSLA centres;
 - upgrading data transfer networks;
 - setting up 135 additional automated workplaces (5 at each centre);
 - implementing an identification system and eToken technology;
 - developing and implementing specialized software modules, i.e. the law office module, an analytical module for data processing, analysis, and visualization, the initial phase



of the electronic document management system, an upgraded web interface, and an authorization and administration module.

61. Due to limited financial resources (only UAH 656.1 thousand were received from the state budget in 2013, and the remaining UAH 2,541.1 thousand debt was paid off in 2014), only 12 high-performance blade servers required for a failsafe data processing centre were purchased. The servers were not connected to the IIAS.
62. In 2014, no additional resources were allocated from the state budget for the implementation of the IIAS. Taking into account Ukraine's difficult financial situation, the planned investments into the system were suspended due to overall reduction in budget appropriations for central executive agencies.
63. One of the key objectives of the State Targeted Program for FLA System Development for 2013-2017 was to introduce a **mechanism of ongoing training, professional education and development (upgrading of qualifications) for FSLA advocates, employees of the CCLAP and FSLA centres.**
64. The Program identified a number of activities intended to reach this objective, such as the development and improvement of relevant training programs, the organization of workshops focused on specific topics and in-service training, including training on management issues for all managers of the FSLA centres.
65. No funds were allocated in the State Budget for 2013 – May 2015 to conduct the above-mentioned training. Until May 2015, contributions from the international donors were the primary source of funding in support of the training for FSLA advocates and FSLA centres staff.
66. In line with the Law on FLA, the CCLAP were tasked with providing training, methodological and consultative support to FSLA advocates, the staff of the FSLA centres, employees of local self-government bodies and specialized entities providing FPLA, as well as organizing conferences and other information sharing events in the area of FLA.
67. The Memorandum of Cooperation between the MoJ and the UNBA facilitates cooperation between the two bodies with respect to the upgrading of qualifications for FSLA advocates. More specifically, the parties have agreed that the CCLAP and regional FSLA centres are considered to be certified organizers and providers of training to FSLA advocates. This signifies that advocate's participation in training events organized by the CCLAP and regional FSLA centres counts towards the requirements for the upgrading of qualifications for advocates. The Memorandum also stipulates that guidelines, methodological recommendations and other training materials for advocates developed by one of the parties can be shared and published (at the institution's own expense and respecting copyright law).
68. FSLA trainers/advocates were certified by the UNBA on CCLAP's request to serve as individual experts recognized by the UNBA to conduct trainings for all advocates in Ukraine on criminal procedure matters. The UNBA regularly invites FSLA trainers/advocates to conduct trainings organized by the UNBA.
69. The key recipients of trainings within the FLA system were FSLA advocates providing FSLA in criminal cases. They participate in trainings and other learning events organized by the CCLAP on a voluntary basis and free of charge. Similarly, there were no limitations for FSLA advocates to participate in training events organized by other



stakeholders (which are not part of the FLA system), such as the UNBA.

70. There were three mechanisms used by the CCLAP to strengthen the capacity of FSLA advocates:
 - Ad-hoc learning events - informal learning events that include trainings, workshops, roundtables, etc. These events usually have a limited scope and coverage;
 - Comprehensive training events - intended to cover all regions of Ukraine and capture the maximum possible number of FSLA advocates (ToT and cascade trainings); and
 - Methodological and consultation support - in efforts to share best practices and to support the on-going training of FSLA advocates, the CCLAP developed guidelines (methodological recommendations) for FSLA advocates. The subject matter of the guidelines was aligned with the topics of the cascade trainings.
71. Of all FLA system staff, training activities were conducted only for regional FSLA centres' directors and quality managers.
72. There was no systematic approach to assessing the training needs of FSLA advocates and FLA system staff.
73. Training for local self-government bodies and specialized entities providing FPLA was not conducted.
74. In context of **communications and public awareness** it is possible to mention the State Targeted Program for Establishing Free Legal Aid System 2013-2017, which identified an information campaign targeted as those who are eligible to receive FLA, advocates, agencies authorized to detain, arrest or take individuals into custody, the local self-government bodies and NGOs, as one of its key objectives.
75. The State Program further outlined specific aims of the information campaign, such as:
 - Raising awareness of eligible individuals on FLA as well as advocates, agencies authorised to detain, arrest or take individuals into custody, the local self-government bodies and NGOs on their respective roles and obligations towards the FLA system;
 - Informing the above-mentioned stakeholders about the general principles of the development and implementation of the FLA system; and
 - Conducting training for representatives of NGOs working with individuals eligible to FLA, publishing books and brochures on FLA, etc.
76. Proposed activities to reach the mentioned objectives included publishing and distributing of a wide range of information materials (i.e. brochures, leaflets, stickers with FLA toll-free number, posters, etc); conducting training for volunteers and NGOs; organizing round tables at the regional level to discuss the most pressing issues of FLA development, introducing kiosks with information of FLA provision, etc.
77. In accordance with the Law on FLA CCLAP was tasked with establishing print media, publishing and distributing books and other printed materials; producing and disseminating social advertisement, video and audio products.
78. Cost for development and implementation of the previously mentioned information campaign were estimated to be approximately 151.5 million UAH (including from the State budget – 139.1 million UAH and other sources – 12.4 million UAH), including 58.1 million UAH for 2013-2014.
79. No funds were allocated in the State Budget for 2013 – May 2015 towards the



above-mentioned information campaign. All funds received for this period (about 1 million UAH or 2% of total sum allocated in the State Programme) were provided via donors' support.

80. In context of the FLA information campaign, the following steps were taken until May 2015:
- Branding of the FLA system - development of a logo that would be recognizable and used in all promotional and advertisement materials;
 - Public outreach activities, which are more connected with FSLA in criminal cases. FPLA was not the primary focus. The following instruments were used:
 - At the beginning mainly mass media was used and because of the system being just developed the content of the outreach was very fragmented.
 - Internet and social media. A lot of information was disseminated via internet and social media – web-pages, Facebook, YouTube etc. The only problem that was present then and now is that accessibility and knowhow how to use such resources across the country, particularly among the most vulnerable Ukraine's population, is very limited.
 - Printed materials. With the assistance of the USAID Fair Justice Project and the ULAF, an information campaign on FSLA in criminal cases was launched. The campaign focused primarily on the production and dissemination of printed materials (i.e. booklets, posters and stickers). But it was assessed that the amount was not enough and that there was serious push back from bodies authorized to detain people to disseminate the promotional material and inform detainees on their right for FLA as stipulated by the legislation.
 - In addition to that, also communication activities with stakeholders of the FLA System and stakeholders outside of the system were implemented. As well as various formats for communications purposes were used, like working groups, round-table discussions, etc.
 - External Stakeholders were also engaged to promote FLA system. Until May 2015 only several external stakeholders introduced promotion of FLA into their agenda and it was recognised that there is a lot of potential in the future to cooperate with a wide spectrum of external stakeholders, especially to effectively reach vulnerable groups, that the FLA system it self can not do in an effective way.
81. **FLA budget** wise in 2015, the FLA system received UAH 242.3 million in funding, which was 84.1 percent of the funds foreseen for 2015. The increase of funding for 2015 was due to extending the functions of the FSLA system starting from July 1, 2015 to include provision of FSLA in civil and administrative cases and the launch of local FSLA canters which required renting 100 offices and paying salaries to approximately 1,600 new staff members.
82. Pursuant to part 1 of the Article 55 of the Budget Code of Ukraine, already in 2015, the costs of the FLA system were protected in terms of remuneration of the employees of the CCLAP and FSLA centres.
83. The list of protected budget expenditures, which is defined by the Budget Code of Ukraine, did not at that time including the remuneration for FSLA providers (advocates).
84. The 2015 Justice Sector Reform Strategy (JSRS) and accompanying Action Plan

(JSRSAP) in general have correctly identified the issues of the free legal aid system and in context of the justice sector reform were the first comprehensive, sector-wide strategic planning sectoral policy instruments.

Policy development/legislative process

85. Considering the overall state of affairs with regards to policy development and legislative processes in the area of FLA until 2015, it can be concluded that in general the outcome related issues/points were then recognized and assessed. The importance of the legislative and policy development process was recognized, and outcomes related to making it more effective and efficient in context of the justice sector reform strategy were taken into account.
86. The CCLAP performs the responsibilities of the MoJ in the field of FLA, in particular the development and implementation of an effective FLA system in Ukraine and ensuring its accessibility and quality. One of the key roles and responsibilities of the CCLAP is to develop, propose or to provide inputs to MoJ about major policy and regulatory initiatives that are connected to the area of free legal aid.
87. Considering that FLA system in Ukraine was and still is in its initial stages of development, but at the same time, it has been developing dynamically and making considerable progress, it was of highest importance to ensure that there is a good cooperation model in place between CCLAP and the MoJ, especially regarding the policy and regulatory initiatives.
88. Another very important aspect, is that CCLAP in the period of development and progress in the FLA system was to improve the policy-making process, making sure that it is evidence-based. Which could have been considered as a weak point of the FLA system, because there were no national wide legal needs assessments done, there was not a well-developed information system, which could provide the needed statistical data etc.

Scope of the legal aid system

89. Considering the overall state of affairs with regards to scope of the FLA system until 2015, it can be concluded that in general outcomes related issues/points were then recognized and assessed.
90. The main issue then was the limited scope and accessibility of FLA, which not only means, that there was a need to expand the categories of cases where FSLA could be granted, but also to expand the accessibility to FPLA, especially because legal empowerment and early intervention were recognized as important factors.
91. Beyond the previously mentioned also expansion of the categories of persons who can be eligible to receive FLA and the limitations of any procedural or financial hurdles for the FSLA beneficiary was recognized as an important step.
92. Not so clear was the reasoning to review potential expansion of FLA to cover expertise and expert testimony in FLA cases, but not to do the same with court fees, taxes and deposits, which can also be significant obstacles for a person to access justice.

Institutional capacity and management of the legal aid system

93. Considering the overall state of affairs with regards to institutional capacity and management of the FLA system of the FLA system until 2015, it can be concluded that in



general outcomes related issues/points were then recognized and assessed.

94. One of the main issues then was the very limited interactions among relevant stakeholders in the FLA system. Which meant not only communication, coordination of FPLA providers (local self-governance bodies, CSOs, and HEIs), but also cooperation and communications with FSLA providers – advocates and essentially also UNBA.
95. Other problem area was connected to the lack of coverage of primary and secondary legal aid providers, which was a very significant obstacle when it came to the FLA system reform and the expansion of the scope of FLA and the categories of persons who can benefit from the system.
96. In addition, a significant weakness that had to be address was the managerial capacity of CCLAP, which not only included strengthened capacity of regional FSLA centres, but also establishment of the optimal number of local FSLA centres, because only with the existing regional FSLA centres it was not possible in practice to implement the changes in the FLA system.
97. Another issue relates to the outcomes in this sub-chapter was linked with the need to streamline the FSLA providers assignment process, not only in criminal matters, but as well in civil and administrative. The FLA case distribution process among advocates was not transparent, effective and first and foremost was not understandable to the FSLA beneficiaries. The existing advocate assignment process also did not exclude the possibilities that situations of conflict of interest are not managed.

Communication and public awareness

98. Considering the overall state of affairs with regards to communication and public awareness issues in the FLA system until 2015, it can be concluded that in general outcomes related issues/points were then recognized and assessed.
99. Strengthening awareness raising and communications capacity was already then recognized as a key step in the FLA system reform. It was acknowledged that it is especially important to strengthen the communication capacity between the relevant stakeholders in the FLA system and to ensure that the communications channels are effective, practical and used regularly.
100. In addition to that, it was also recognized that there should be a public awareness plan for the FLA system, with a range of public awareness activities, that would systematically ensure that society is informed about the new functions, scope, procedures, accessibility of the free legal aid system.
101. One thing, which was not enough emphasized is the need to have strategic approach to raising communication and public awareness, which would entail the need for the responsible authority (CCLAP) to develop and implement communication and public awareness strategy, so that all the activities are planned, coordinated and monitored.

Capacity strengthening

102. Considering the overall state of affairs with regards to capacity strengthening in the FLA system until 2015, it can be concluded that in general outcomes related issues/points were then recognized and assessed.
103. One of the main issues then was linked to lack of capacity for management, oversight and decentralized service delivery of the FLA services, as well as lack of knowledge



and efficiency of FLA providers. There was also no systematic approach to assess the training needs of FSLA advocates.

104. Therefore, it was recognized that there is a need to further strengthen the cooperation between CCLAP and UNBA, and ensure that the training system for FLA providers can be strengthened and expanded, as well as quality training programs and materials can be developed.
105. The issue that was not that much highlighted was the need to develop training programs and materials, as well as to conduct relevant trainings also for the CCLAP staff, so that their capacity, effectiveness and efficiency is further increased.

Quality assurance

106. Considering the overall state of affairs with regards to quality assurance in the FLA system until 2015, it can be concluded that in general outcomes related issues/points were then recognized and assessed.
107. One of the main issues then was linked to lack of quality standards and procedures in all types of FSLA matter. At that point quality standards were already developed for provision of FSLA in criminal cases, but there was nothing developed for provision of FSLA in civil and administrative cases.
108. In addition, it was recognized that there is a need to analyse FLA beneficiary satisfaction and to put in place also additional quality assurance mechanisms with the help of external stakeholders, like courts and Ombudsman, as well as to develop practice guides and other readily-made materials, that could be used as FLA resources.
109. The issue that was not that much highlighted at that time was the need to develop quality standards for FPLA for all FPLA providers.

Development of IT tools

110. Considering the overall state of affairs with regards to development of IT tools in the FLA system until 2015, it can be concluded that in general outcomes related issues/points were then recognized and assessed.
111. The main issues, that were connected to lack of a comprehensive legal aid case management system, Complex Information Analytical System, as well as one unified webpage for all issues related to the FLA system, were very well highlighted and analysed.
112. The only outcome that cannot be categorised as a relevant outcome, based on the state of affairs until 2015 was development of an automated or on-line system for measuring user satisfaction. Based on the specific characteristics of the beneficiaries of FLA, the already limited amount of finances designated to the development of such solutions, as well as the relevance of data, that such a user satisfaction mechanism would provide in context of quality assurance, it is doubtful that such an outcome at that time can be categorised as a relevant outcome.

Financing of the legal aid system

113. Considering the overall state of affairs with regards to financing of the FLA system until 2015, it can be concluded that in general outcomes related issues/points were then recognized and assessed.
114. Based on the fact that the FLA system was developing dynamically and making con-



siderable progress, it was very well understood that there is a great need to increase financing of primary and secondary legal aid not only from state budget, but also from other sources if possible.

115. In addition to that, already then it was highlighted that there is a need to ensure that the budgetary lines that relate to FLA are protected and there is sound and effective control over the expenditures.



ADEQUACY OF JSRSAP AND ITS PARAMETERS

Overall assessment

The Section assesses the overall adequacy of the set of interventions, structure, indicators, formulations and other parameters of JSRSAP segment under consideration.

116. Within the framework of the mid-term evaluation of the JSRSAP intervention areas 6.4. and 6.5., one of the tasks is to elaborate the adequacy of the set of interventions, structure, indicators, formulations and other parameters of the JSRSAP.
117. The overall assessment is that within the JSRSAP the outcomes and the correspond outputs regarding the FLA areas of intervention are comprehensive and cover the essential segments of the FLA system in Ukraine.
118. Nevertheless, during the mid-term evaluation of the JSRSAP intervention areas, which are connected to FLA, it was concluded that there are several inadequacies that should be mentioned.
119. **First**, some JSRSAP outcomes in the intervention areas 6.4. and 6.5. are repeating them self, like “Potential expansion of legal aid to cover expertise and expert testimony” and “Possibility of coverage for expertise and expert testimony in legal aid cases”, or “Integrated full-fledged free legal aid system rolled out and in place in selected regions” and “Rollout of full-fledged free legal aid system in place in selected regions”. It is not very clear why such an approach was chosen, but it should be underlined that in this mid-term evaluations the progress of the previously mentioned outcomes was evaluated once.
120. **Second**, there are some shortcomings identified in context of the structure of the JSRSAP. More specifically with the capacity strengthening outcomes, because right now under the under JSRSAP action 6.5.1. “Development of training system and expanded delivery of training”, there are outcomes and outputs that are only directed at capacity strengthening, trainings of FSLA advocates. A very important issues that in practice has been recognised as well is capacity strengthening for the CCLAP staff and not only managerial, but first and foremost the CCLAP regional and local staff that provided FPLA and FSLA.
121. There are some outcomes which do concern the issues of capacity strengthening of CCLAP staff under JSRSAP action 6.4.1., but it would be advisable to include under the JSRSAP action 6.5.1. “Development of training system and expanded delivery of training” also outcomes that are directed towards trainings, increasing of capacity, effectiveness and efficiency of FLA service providers (not only FSLA advocates) and managers. It has to be underlined, that partly that actually is already happening with the establishment of CCLAP Inter-Regional Resource and Communications Platform Divisions (CCLAP Pravokator Offices).
122. Recommendation - under the JSRSAP action 6.5.1. “Development of training system and expanded delivery of training” outcomes should be introduced, which are also directed towards trainings, increasing of capacity, effectiveness and efficiency of FLA service providers (not only FSLA advocates) and managers.
123. **Third**, there is a problem with wording of some of the outcomes, outputs and their implementations steps (which are defined in the monitoring tool).



124. There is a significant issue with the wording used in two outcomes under JSRSAP action 6.4.1. and 6.4.2., which foresee the rollout of full-fledged free legal aid system. The same applies also to one output formulated under JSRSAP action 6.4.1.
125. The issue with the used wording is that it is not clear from the JSRS or JSRSAP what is meant with “full-fledged free legal aid system”. It is a very important aspect, because as mentioned before the wording “full-fledged free legal aid system” is used more than once. In the monitoring tool where the implementation of the output 3 under the JSRSAP actions 6.4.1. is monitored, the responsible authority has understood this output in a narrow way and has presented the fulfilment of it with the implementation of the initiative of mobile FPLA access points nationwide. At the same time the Law on FLA, which regulates what FLA system is and foresees the main building blocks of the system, as well does not clearly regulate what “full-fledged free legal aid system” means.
126. Recommendation – for the purposes of JSRSAP there is a need to define what “full-fledged free legal aid system” means.
127. There is also an issue with the wording used in output 1 “CCLAP management information system (MIS), including electronic case management system, fully operational. Electronic case-management systems, FSLA provider registries and internal communication channels between CCLAP, all secondary legal aid centres, NBC, and advocates in place and used effectively” under the JSRSAP activity 6.5.3.
128. Specifically, the issue is with the title of the CCLAP information system, because it is not “CCLAP management information system (MIS)”, instead the established title of it is “CCLAP integrated information/analytical system (IIAS)”.
129. Recommendation – to clarify the wording of output 1 under the JSRSAP activity 6.5.3 and use the correct title of the CCLAP information system – CCLAP integrated information/analytical system (IIAS).
130. Another major issue wording wise is how the implementation steps, which are defined in the monitoring tool. Nevertheless, that the monitoring tool is an indicative tool, the inconsistencies, between the defined outputs by the JSRSAP and implementation steps within the monitoring tool create situations, that not always the outputs are implemented correctly or implemented at all. Recommendations regarding this issue are highlighted in the chapter about accuracy of monitoring of and reporting on JSRSAP implementation.
131. **Fourth**, some of the defined outputs were not relevant at the moment of the adoption of the JSRSAP. For example, output 1 and 2 under JSRSAP action 6.4.3. “Expansion of legal aid system to ensure representation of citizens in court in criminal cases, including convicts” and “Reviewed regulatory framework on expansion of the legal aid system to cover civil and administrative cases, and convicts” were already in a large part implemented in 2014, before the JSRSAP was adopted. Therefore, these outputs were not relevant at the moment of the adoption of the JSRSAP and they should not be regarded as outputs that have been achieved within the JSRSAP implementation period.
132. **Fifth**, there are some discrepancies, because of the incorrect translations of the JSRSAP text into English:
- in output 5 and 6 under JSRSAP action 6.4.1. the word “Agreement” is being used, although based on the Ukrainian translation, the context of the output, and also the

provided information by the responsible authority it is clear that it should be understood as Memorandum of Understanding. It is especially important, because in practices “Agreement” and “Memorandum of Understanding” are two different things, with vastly different legal consequences;

- in output 5 under JSRSAP action 6.4.1. the English wording differs from the Ukrainian wording when it comes to “associations of local self-governance authorities”, which in Ukrainian and also in practice should be formulated as “local self-governance authorities”, because none of the activities can be implemented with associations of local self-governance authorities;
 - in output 4 under JSRSAP action 6.4.2. the English wording differs from the Ukrainian wording when it comes to scope of the output. The English wording foresees that the output applies to FSLA, while the Ukrainian wording foresees that the output applies to FPLA and FSLA, which of course is a significant difference;
 - in output 1 and 2 under JSRSAP action 6.4.3. the English wording differs from the Ukrainian wording when it comes to the definition of the target group. In both outputs in English the term “convicts” is used, while in the Ukrainian two different wordings are used, which creates confusion about how the outputs should be implemented.
133. Recommendation that are connected with discrepancies, because of the incorrect translations of the JSRSAP text into English, have been provided in the chapter about accuracy of monitoring of and reporting on JSRSAP implementation.
134. **Sixth**, there are also some issues with how the outputs are linked with outcomes, or more specifically how the logical link is foreseen.
135. That leads to situation when an outcome is formulated more like outputs, for example, outcome “Advanced curricula and quality materials for training legal aid lawyers” by all means is formulated more like an output under JSRSAP action 6.5.1. Especially because it is formulated in a detailed manner, that it can be directly subcategorised under a different outcome under the same JSRSAP action 6.5.1., as well because there are no corresponding outputs, that would entail everything what is foreseen in the outcome.
136. Recommendation – it would be advisable to reformulate the outcome “Advanced curricula and quality materials for training legal aid lawyers” under JSRSAP action 6.5.1. and move it to the outputs, because already in the current wording it sounds more like an output. When the output is formulated it should be addressed not only to FSLA advocates, but also relevant FSLA centre staff.
137. Another issue with how the outputs are linked with outcomes, can be demonstrated with output 7 “Reviewed regulatory framework on introduction of expertise and expert testimony directly by the defence” under the JSRSAP actions 6.4.1. and the corresponding outcome “Potential expansion of legal aid to cover expertise and expert testimony”.
138. Based on the formulation of the outcome it can be concluded the it was not just limited to criminal cases and that the main aim was to explore the option to include expertise and expert testimony in the FLA coverage in all types of cases (civil, administrative, criminal). Meanwhile the output is formulated in a way that it is not connected with FLA system at all, but rather an initiative to amend the Criminal procedure law and introduce a mechanism that expertise and expert testimony can be directly acquired by the defence.



139. At the same time, it must be underlined that there are no other outputs that could contribute to the attainment of the outcome “Potential expansion of legal aid to cover expertise and expert testimony”, therefore it is clear that in this situation there is problems in linking the defined output in JSRSAP with the corresponding outcomes and to illustrate how the outcome has been achieved.
140. Recommendations: introduce a new output “Reviewed regulatory framework on possible introduction of a mechanism to cover expertise and expert testimony expenses in legal aid cases”.
141. For the purposes of this mid-term evaluations of the JSRSAP intervention areas 6.4. and 6.5. an assessment-specific matrix was devised for the purpose to group JSRSAP relevant outcomes under logical sub-chapters. Further in this chapter the specifics of policy formulation concerning particular issues under relevant outcomes, that are grouped under sub-chapters, will be addressed.

Policy development/legislative process

142. Under this assessment-specific matrix sub-chapter, outcomes related to policy development/legislative process are grouped, and they are clear and formulated adequately. Especially because the FLA system is developing dynamically and making considerable progress, both outcomes are relevant.
143. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively.

Scope of the legal aid system

144. Under this assessment-specific matrix sub-chapter, outcomes related to the scope of the FLA system are grouped.
145. In general, the relevant outcomes related to the sub-chapter are defined clearly and comprehensively.
146. Nevertheless, there are certain policy issues that have not been addressed fully. The state’s main obligation is to provide a person, lacking the necessary financial means, with the right to FLA, access to court and ultimately access to justice. Therefore, it is necessary to look at the issue of access to court and access to justice in context and to understand that it is not enough only to ensure the coverage of expenses that are directly linked with the provision of FLA. Main reason for that is, because there are also other obstacles of a financial nature, that the free legal aid beneficiary must overcome, like, court taxes, court fees, as well as expenses that are connected to interpretations services or expertise’s and expert testimonies.
147. Currently in context of the JSRSAP the only policy related issue that is at least partly addressed, relates to the possibility of coverage for expertise and expert testimony in FLA cases.
148. Recommendation: there is a need to evaluate the potential expansion of FLA to cover not only expertise and expert testimony, but also court taxes and court fees.
149. Another issue that could be addressed is the further development of means and merits test in context of the FLA in civil and administrative matters. A person has the right to FLA if two conditions are met. First, if he does not have enough means to protect his or her right (means test), and second merits test.

150. The standards/criteria for assessing whether the merits of the case would make it legitimate for the responsible authority to decide on the application to grant FLA vary from country to country. For example, standards/criteria for the merits test can be:
- Manifest inadmissibility;
 - Unfoundedness;
 - Prospects of success or reasonable prospect of successful outcome;
 - Public interest;
 - Reasonable private paying individual test;
 - Proportionality (likely damages / likely costs);
 - Negative necessity criterion;
 - Problem must be legal;
 - Financial weight.
151. Currently the FLA system in Ukraine is very open and does not have a lot of limitation, especially if it comes to the scope, but at the same time the regulations are not very clear structured and the law practically does not provide much of a possibility for the responsible authority (CCLAP) to evaluate in civil or administrative matters the merits of the case. That in return leads to the situations that the state budget (tax payers' money) is being used not effectively and at the same time can also play a negative factor when it comes to the court system efficiency.
152. Recommendation: Review the possibility in the Law on FLA to clearly separate the criteria for means test from criteria for merits test, as well as review the possibility to introduce new standards/criteria for the merits test. Especially because currently the variation of merits test, that is introduced in the FLA system, does not allow CCLAP to fully act as filter, that ensures that FSLA is not provided in cases where it shouldn't be provided (for example, when the matter is manifestly unfounded, the value of the case in disproportionately low compared to FSLA expenditure etc.).

Institutional capacity and management of the legal aid system

153. Under this assessment-specific matrix sub-chapter, outcomes related to the institutional capacity and management of the FLA system are grouped.
154. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively.
155. Nevertheless, there are certain policy issues that have not been addressed fully with in the JSRSAP. One of the issues right now or in future that could be addressed is the CCLAP independence, as well as there is a lack of outputs that are connected to the topic of decentralisation of the FLA system, for example, with the introduction independent FLA provider, etc.

Communication and public awareness

156. Under this assessment-specific matrix sub-chapter, outcomes related to communication and public awareness are grouped.
157. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively, and they cover the relevant issues within the FLA system.



Capacity strengthening

158. Under this assessment-specific matrix sub-chapter, outcomes related to capacity strengthening are grouped.
159. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively, and they cover the relevant issues within the free legal aid system.
160. Nevertheless, there are certain policy issues that have not been addressed fully with in the JSRSAP. One of the issues that must be taken into account is the fact that majority of the FSLA in civil and administrative matters is being provided by the regional or local CCLAP staff. At the same time the JSRSAP does not foresee a clear outcomes and outputs directed towards capacity building of CCLAP staff, more specifically development of a comprehensive training system (program, curricula, materials etc.).
161. In practice, there are certain things already done by the CCLAP to facilitate and strengthen the capacity of its staff, but it is not coordinated, and it is not prioritising enough CCLAP staff trainings, especially regarding soft and hard skills.
162. Recommendation: review the possibility in the future to address the capacity strengthening system for the CCLAP staff more comprehensively (soft and hard skills) and strategically.

Quality assurance

163. Under this assessment-specific matrix sub-chapter, outcomes related to quality assurance are grouped.
164. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively, and they cover the relevant issues within the FLA system.
165. Nevertheless, there are certain policy issues that have not been addressed fully with in the JSRSAP. One of the most important being – unified minimum quality standards for FPLA for all FPLA providers. Right now, there is a set of internally approved standardized procedures and minimum criteria that the staff of local CCLAP centres must follow while providing FPLA. The issue here is that the established procedure and criteria by CCLAP do not apply to all FPLA providers, therefore it is impossible to ensure the same minimal quality FPLA service to everybody.
166. Recommendation - To avoid different quality FPLA services, there is need to review the possibility to develop unified minimum quality standards for FPLA, that would apply to all FPLA providers.

Development of IT tools

167. Under this assessment-specific matrix sub-chapter, outcomes related to development of IT tools are grouped.
168. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively, and they cover the relevant issues within the FLA system.

Financing of the legal aid system

169. Under this assessment-specific matrix sub-chapter, outcomes related to financing of the FLA system are grouped.
170. In general, the relevant outcomes, related to the sub-chapter are defined clearly and comprehensively, and they cover the relevant issues within the FLA system.



ACCURACY OF MONITORING OF AND REPORTING ON JSRSAP IMPLEMENTATION

The Section concerns accuracy of monitoring (maintaining the instrument-specific MT) and appropriateness of narrative or other reporting formats on JSRSAP implementation, as well as provides analysis, specific examples of inaccuracy, other shortcomings and relevant recommendations.

171. To measure the implementation of the JSRSAP a monitoring tool was introduced. The monitoring tool is covering all the outputs defined in the JSRSAP free legal aid intervention areas:

- 6.4. Increased Efficiency and Effectiveness of the Legal Aid System and Improved Management;
- 6.5. Quality Enhancement and Quality Control for Provision of Legal Aid.

172. In context of the mid-term evaluations in the previously mentioned JSRSAP areas of intervention, a general conclusion can be made that responsible authorities have put a lot of work in to reach the defined outputs in the JSRSAP. Therefore, most of the defined outputs in JSRSAP have been reached and that generally the monitoring tool has been filled out correctly. Of course, there are discrepancies and possible recommendation regarding some of the outputs, that will be provided within this chapter of the report.

JSRSAP actions 6.4.1. “Improved legal and regulatory framework for legal aid system, and improved implementation”

173. Measure/output 2 “Piloting of initiatives enhancing access to justice included in the MoU between CCLAP and Ombudsman” under the JSRSAP actions 6.4.1.: during the assessment in was concluded, that the first three steps that are defined in the monitoring tool are fulfilled by the responsible institutions.

174. However, the 4th step is not defined in the monitoring tool, but nevertheless it is marked by the responsible authority as fulfilled.

175. To ensure that the initiatives about enhancing access to justice, that are mentioned in the MoU between CCLAP and Ombudsman are piloted and implemented in practice, a following recommendations should be considered.

176. Recommendations: to define the 4th step in the monitoring tool for this measure/output as follows: “Implementations of the signed MoU between CCLAP and the Ombudsman”

177. If the 4th step is introduced - implementations of the signed MoU between CCLAP and the Ombudsman, then right now this step cannot be considered to be fulfilled, because the Ombudsman and CCLAP have both indicated that many of the initiatives foreseen in the MoU have not yet been piloted.

178. Measure/output 3 “Roll-out of full-pledged legal aid system, starting in selected regions” under the JSRSAP actions 6.4.1.: during the assessment in was concluded, that it is not clearly defined what “roll-out of full-pledged legal aid system” means, therefore, there is a clear problem with the formulation of this measure/output and also the evaluations of its implementation. In addition to that, everything that already has been introduced in the FLA system has been introduced in all regions.



179. Considering the provided information by the responsible authority in the monitoring tool, it can be concluded that the responsible authority has understood this measure/output in a different way and has presented the fulfilment of it with the implementation of the initiative of mobile FPLA access points nationwide.
180. The Law on FLA regulates what the FLA system is and foresees the main building blocks of the system. Considering that the implementation of the initiative of mobile FPLA access points nationwide is not regulated by the Law on FLA, it cannot be considered that implementation of the initiative of mobile FPLA access points nationwide is the same as rolling-out of a full-pledged legal aid system.
181. Therefore, it cannot be concluded that the measure/output 3 "Roll-out of full-pledged legal aid system, starting in selected regions" has been fulfilled.
182. Recommendations: for the purposes of JSRSAP there is a need to define what "full-pledged free legal aid system" means.
183. Measure/output 5 "Agreements for cooperative relationships between CCLAP and associations of local self-governance authorities, CSOs, HEIs, for initiatives to facilitate the provision of primary legal aid" under the JSRSAP actions 6.4.1.: during the assessment it was concluded, that there is a problem with the English wording of the measure/output, because "Agreement" in this context by the responsible authority is understood as Memorandum of Understanding. In practice "Agreement" and "Memorandum of Understanding" are two different things, with vastly different legal consequences.
184. In addition to that, in the English wording differs from the Ukrainian wording when it comes to "associations of local self-governance authorities", which in practice should be formulated as "local self-governance authorities", because none of the activities were implemented with associations of local self-governance authorities.
185. CCLAP did sign MoU, as it was foreseen in the Ukrainian wording of this measure/output, with local self-governance authorities, CSOs, HEIs about the provision of FPLA. Therefore, it can be concluded that step 1 and step 2 have been fulfilled.
186. In practice though, step 3 and step 4 can be implemented by CCLAP only with local self-governance authorities.
187. Therefore, it can be concluded that measure/output 5 has been fulfilled.
188. Recommendations: to clarify the English wording of the measure/output 5 "Memorandum of Understanding concluded between CCLAP and local self-governance authorities, CSOs, HEIs, to facilitate various initiatives regarding the provision of primary legal aid".
189. Measure/output 6 "Agreements for cooperative relationships between NBC/ RBCs and local self-governance authorities, to facilitate the provision of primary legal aid" under the JSRSAP actions 6.4.1.: during the assessment it was concluded, that after the MoU, which was signed on 19 November 2013 between MoJ and UNBA, no other MoU have been signed between NBC/ RBCs and local self-governance authorities, to facilitate the provision of FPLA.
190. Therefore, this measure/output cannot be regarded as fulfilled, especially because the MoU that the responsible authority has indicated as the document proving that the measure/output has been fulfilled, is signed before the JSRSAP was adopted.

191. The only other MoUs, that can be mentioned here were signed on the 14 December 2018 and 25 March 2019 between CCLAP, CSOs, HEIs with the aim to introduce the mechanism of an independent FPLA provider, increase access point for the FLA system, as well as to develop a network of qualified lawyers and attract them to the FLA system.
192. Nevertheless, considering the wording of measure/output 6, the previously mentioned MoUs cannot be taken into account for the purposes of this measure/output.
193. Therefore, it can be concluded that right now in context of measure/output 6 only step 1 and step 2 have been fulfilled.
194. Recommendations: to clarify the wording of the measure/output 6 under the JSRSAP actions 6.4.1. as follows “Memorandum of Understanding concluded between NBC/RBCs and local self-governance authorities, to facilitate the provision of primary legal aid”.
195. Measure/output 7 “Reviewed regulatory framework on introduction of expertise and expert testimony directly by the defence” under the JSRSAP actions 6.4.1.: during the assessment it was concluded, that the measure/output is not fulfilled.
196. The relevant authority has indicated, that this measure/output has already been fulfilled before the JSRSAP was adopted. Nevertheless, during the review, it was concluded that the initiative to amend the Criminal procedure law and introduce a mechanism that expertise and expert testimony can be directly acquired by the defence, has not been introduced.

JSRSAP actions 6.4.2. “Expansion and support for operations and activities of network of Secondary Legal Aid Centres and institutions providing primary legal aid, and improved regional coverage”

197. Measure/output 1 “Expanded network of Secondary Legal Aid Centres fully operational and providing full-scale secondary legal aid to eligible categories of citizens” under the JSRSAP actions 6.4.2.: during the assessment it was concluded, that the measure/output is fulfilled fully. The only discrepancy is that all the steps were already implemented in 2016 and not in 2017 as it is indicated in the monitoring tool.
198. Measure/output 3 “Legal Aid Call Centre to receive and process reports on detention and streamlined advocate assignment process fully operational” under the JSRSAP actions 6.4.2.: during the assessment it was concluded, that the measure/output is fulfilled fully. The only discrepancy is that all the steps were already implemented in 2016 and not in 2017 as it is indicated in the monitoring tool.
199. Measure/output 4 “Developed and implemented public outreach and advocate engagement strategies at national and regional/local levels, to support operation of the secondary legal aid system” under the JSRSAP actions 6.4.2.: during the assessment it was concluded, that the measure/output has not been fully fulfilled and that one of the main reasons for that could be the wording of the measure/output, as well as wording of the implementation steps.
200. The current wording of the measure/output states that the task is to develop and implement public outreach and advocate engagement strategies, which based on the assessment and research has not been done, because no strategies in the area of public awareness and advocate engagement have not been developed.



201. The relevant authority has indicated, that the output has been fulfilled within the framework of MoJ project “I have a right”. Nevertheless, during the review, it was concluded that that is not the case, because in the project “I have a right” and its plans there are no objectives which directly can be linked with the fulfilment of this output.
202. In additions, it must be underlined that development and implementation of public outreach and advocate engagement strategies should be in the competence of CCLAP, which directly is responsible for the functioning of the FLA system.
203. Another issues that must be underlined is that the English wording differs from the Ukrainian wording when it comes to scope of the output. The English wording foresees that the output applies to FSLA, while the Ukrainian wording foresees that the output applies to FPLA and FSLA, which of course is a significant difference.
204. Nevertheless, based on the information that was provided by CCLAP in can be concluded that public outreach and advocate engagement activities were successfully implemented in practice and therefore the measure/output can be considered to be fulfilled.
205. Recommendation: It would be advisable for the CCLAP in the future to fully implement the defined measure/output in such a way, that the communication and awareness building strategy is also developed.
206. Recommendation: to clarify the wording of the measure/output 4 under the JSRSAP actions 6.4.2. as follows “Communication and awareness building strategy developed and implemented, to support operation of the free legal aid system”.

JSRSAP actions 6.4.3. “Expansion of coverage of legal aid system”

207. Measure/output 1 “Expansion of legal aid system to ensure representation of citizens in court in criminal cases, including convicts” under the JSRSAP actions 6.4.3.: during the assessment in was concluded, that the measure/output is fulfilled. The only discrepancy is that all the steps regarding convicts were already implemented in 2014, before the JSRSAP was adopted. Everything else was in practice already implemented in 2015 and not in 2016, 2017 as it is shown in the monitoring tool. Therefore, this measure/output has not been formulated correctly, because the output was not relevant regarding convicts.
208. Measure/output 2 “Reviewed regulatory framework on expansion of the legal aid system to cover civil and administrative cases, and convicts” under the JSRSAP actions 6.4.3.: during the assessment in was concluded, that the measure/output is fulfilled fully. The only discrepancy is that all the steps regarding convicts were already implemented in 2014, before the JSRSAP was adopted. Everything else was in practice already implemented in 2015 and not in 2016, 2017 as it is shown in the monitoring tool. Therefore, this measure/output has not been formulated correctly, because the output was not relevant regarding convicts.

JSRSAP actions 6.5.1. “Development of training system and expanded delivery of training”

209. Measure/output 1 “Training (raising professional qualifications) for advocates providing secondary legal aid, based on regularly performed needs assessments” under the JSRSAP actions 6.5.1.: during the assessment in was concluded, that the measure/output is fulfilled. The only discrepancy is that the responsible authority has indicated

that everything has been fulfilled in 2016 with the introduction of the CCLAP Inter-Regional Resource and Communications Platform Divisions (CCLAP Pravokator Offices), which cannot be the case, because the CCLAP Pravokator Offices were established in 2017 and they started to fully operate in 2018.

210. Measure/output 2 “Practice guides and training modules related to criminal, civil, and administrative matters developed, disseminated and updated, and used regularly” under the JSRSAP actions 6.5.1.: during the assessment it was concluded, that the measure/output is fulfilled.
211. It should be underlined, that the responsible authority in the monitoring tool has indicated incorrect information about how this output has been fulfilled.

JSRSAP actions 6.5.2. “Strengthened quality control and assurance system for secondary legal aid”

212. Measure/output 1 “Quality standards for the provision of secondary legal aid in different matters developed and applied, to ensure greater quality of legal aid provision by advocates” under the JSRSAP actions 6.5.2.: during the assessment it was concluded, that the measure/output is fulfilled. The only discrepancy is that the responsible authority has indicated that everything has been fulfilled in 2016, which is not correct. Quality standards in civil and administrative matters were adopted in 2017 and quality standards in criminal cases in 2014.
213. Therefore, it can be concluded, that the wording of the measure/output is not correct, and it should have been drafted in such way that it covers quality standards in civil and administrative cases.
214. Recommendation: to clarify the wording of the measure/output 1 under the JSRSAP actions 6.5.2. as follows “Quality standards for the provision of secondary legal aid in civil and administrative matters developed and applied, to ensure greater quality of legal aid provision by advocates”.
215. Measure/output 2 “Effective procedures in place to monitor Quality Standards for the provision of secondary legal aid” under the JSRSAP actions 6.5.2.: during the assessment it was concluded, that the measure/output is fulfilled. The only discrepancy is that the responsible authority has indicated that everything has been fulfilled in 2016, which is not correct. In criminal cases procedure to monitor the quality standards for the provision of FSLA was adopted on 5 April 2015 with the CCLAP Order No 136, which means before the adoption of the JSRSAP. However, in civil and administrative cases the procedure to monitor the quality standards for the provision of FSLA was adopted on 6 December 2018 with the CCLAP Order No 130. In addition, it must be mentioned that with the CCLAP Order No 130 also quality standards for the provision of FSLA in criminal cases were updated.

JSRSAP actions 6.5.3. “Development of information systems for greater delivery of e-justice services”

216. Measure/output 1 “CCLAP management information system (MIS), including electronic case management system, fully operational. Electronic case-management systems, secondary legal aid provider registries and internal communication channels between CCLAP, all secondary legal aid centres, NBC, and advocates in place and used effectively” under the JSRSAP actions 6.5.3.: during the assessment it was concluded, that the measure/output is not fully fulfilled. The responsible authority has indicated that



the first three steps already have been fulfilled in 2016, which is not correct. Step 1 (model of information system is defined) has been fully fulfilled already in 2016. Step 2 (information system developed, and decisions are made), step 3 (information system is operational) and step 4 (information system is being used and data is analysed) have been partially fulfilled, because some functionality already works right now in practices, and some is still being developed and tested.

JSRSAP actions 6.5.4. “Increased and sustainable financing, and sound financial control of legal aid system”

217. Measure/output 1 “Increase in financing of legal aid system from State budget, with adequate controls” under the JSRSAP actions 6.5.4.: during the assessment it was concluded, that the measure/output is fulfilled.
218. Measure/output 2 “Increase in financing of legal aid system from non-State sources, with adequate controls” under the JSRSAP actions 6.5.4.: during the assessment it was concluded, that the measure/output is fulfilled.
219. It should be underlined, that the steps in the monitoring tool are formulated incorrectly, because they are linked only with reporting and control function, and not with increasing of financing.



ATTAINMENT OF RELEVANT JSRSAP OUTCOMES

The Section concerns findings, data, analysis, assessment results, and suggests approximate estimation of scores in terms of attainment of the outcomes and their relevant blocks indicated in the relevant paragraphs and subtitles.

Policy development/legislative process Level of attainment 93%

Outcome – Coordination Centre for Legal Aid Provision (CCLAP) provides regular and constructive inputs for major policy and regulatory initiatives related to justice sector reform

220. According to the Regulation on the CCLAP, approved by the CMU of Ukraine on June 6, 2012 №. 504, one of the main tasks of the CCLAP is “to submit to the MoJ proposals for the formulation and implementation of state policy in the field of FLA”. In addition, this Regulation stipulates that the main tasks of the CCLAP also include “organizational, expert, analytical, informational and logistical support for the exercise of the MoJ’s powers in the field of providing FLA” (the Ministry’s policy-making powers). On March 20, 2019, this Regulation was amended by the MoJ to create a CCLAP Supervisory Board. The purpose of the Supervisory Board is to “ensure the effective implementation of state policy in the field of FLA, as well as the independent and transparent management of the FLA system”.
221. Based on the information received from the MoJ, the CCLAP, as well as other sources⁵, it can be concluded that the CCLAP now has some signs of an independent organization, while retaining the characteristics of an organization that operates under the Government.
222. Throughout the JSRSAP implementation period, the CCLAP based on strategic CMU and MoJ documents, as well as independently identified relevant needs of the FLA system, has provided to the MoJ regular and constructive key policy and regulatory initiatives.
223. To this end, the CCLAP has collected and summarized relevant information, including statistical data, carried out research, developed and specified its own plans of activities, and participated in the development of relevant plans of the MoJ and the CMU, drafted legislative acts, ensured their promotion, adoption and implementation.
224. Based on the analyses, the CCLAP has acted as required by law, addressing its policy proposals to the MoJ. The MoJ generally supported the proposals of the CCLAP and issued the necessary orders or supported the drafting of acts of the CMU and laws for consideration by the CMU. Similarly, the CMU generally supported the CCLAP’s proposals for amending laws during their consideration in the Verkhovna Rada of Ukraine.
225. The CCLAP has ensured the development of almost all necessary legislative acts related to enhancing the efficiency and effectiveness of the FLA system and improving its management, improving the quality standards of FLA and compliance. Nevertheless, some legislative initiatives, like expansion of FLA to cover expertise and expert testimony, were not developed due to objective reasons.

⁵ http://gala.org.ua/wp-content/uploads/2018/11/International-Experience_LA-Governance-Models-Comparative-Report_UA.pdf



226. A small proportion of these acts were submitted to the Government by other entities, but also then in most of the cases the CCLAP's proposals and suggested amendments were taken into account so far as they concerned FLA.
227. In particular, the CCLAP developed the necessary draft laws, regulations of the CMU and orders of the MoJ aimed at:
- ensuring the provision of FSLA to all persons who fall within the criteria laid down in the Law on FLA;
 - identifying new categories of persons eligible for FSLA;
 - creation of a network of local FSLA centres and Legal aid bureaus;
 - separation of powers between the CCLAP, regional and local FSLA centres;
 - simplifying the competition procedure for the selection of advocates providing FSLA;
 - clarification of the terms and procedure for contracting with advocates providing FSLA;
 - improving the procedure for payment of remuneration and reimbursement of advocates providing FSLA;
 - introduction of FSLA quality standards in civil, administrative proceedings and representation in the criminal process, and compliance;
 - regulating the procedure of keeping the Register of advocates providing FSLA;
 - improvement of the procedure for informing regional centres about cases of detention of persons, etc.
228. In 2019, the CCLAP is preparing changes to legislative acts aimed at:
- simplify the procedure for verifying customer compliance with means eligibility criteria. This simplification is planned to be achieved through access to FSLA centre employees' databases, so that clients will not have to provide information on their income and benefits on their own;
 - introduction of the possibility of immediate receipt of FSLA for detainees by contacting the call centre of the FLA system;
 - strengthening the guarantees of obtaining FLA for people with disabilities;
 - improving the payment of remuneration and reimbursement of advocates providing FSLA.
229. Based on the MoJ request, the CCLAP is also participating in policy-making processes in related fields, including on judicial matters, mediation, probation, prevention of domestic violence, social guarantees for vulnerable groups, etc.
230. Considering the received information, as well the concluded analyses there are some recommendations that can be provided.
231. Recommendation: In the future, it would be advisable for CCLAP to monitor the progress of its own legislative initiatives in the MoJ and CMU, to ensure ownership over the legislative initiatives, as well as to ensure a more efficient and effective legislative procedure.
232. Recommendation: In the process of further strengthening the CCLAP's independence, it is important to maintain the potential to develop the policy proposals that the CCLAP has demonstrated so far. In doing so, it seems appropriate to delineate more clearly the powers of the CCLAP, its Supervisory Board and the MoJ in context of develop of FLA policies.

233. Based on the findings, conclusions and recommendations that have been elaborated in this Report, it could be suggested the level of attainment of this outcome could be scored as amounting to 90% of the target.

Outcome – Maximum use of statistics and evidence-based approach in all legal aid policy and regulatory initiatives

234. As mentioned before, the CCLAP constantly uses factual and statistical data in their work, enabling them to develop or amend FLA policies, analyse the implementation of FLA policies, as well as their plans.

235. Information about the main statistical indicators of the work of each FSLA Centre and all advocates providing FSLA is regularly collected, published on the CCLAP website and analysed. For example, the number and types of applications for the FLA services, the number of decisions on the provision of FSLA and the refusal to provide the FSLA, the number and types of legal issues that clients of the FLA system address, the number of consultations, advocates and FLA staff assignment for providing FSLA, the number of persons who were referred to other FLA providers, etc.

236. The main tools for data collection and analysis include the information system IIAS, a FLA call-centre contact database and the comprehensive CCLAP business analysis software. In addition, data collection and analysis is also done about appealed CCLAP decisions.

237. The relevant data analyses by CCLAP has significantly influenced policy and regulatory initiatives related to the definition of new categories of beneficiaries of the FLA system in the Law on FLA, increasing the share of FPLA in the overall structure of FLA services and creating opportunities for the provision of BPD, reviewing the payment terms and reimbursement of FSLA advocates, involvement of employees of the FSLA centres in providing FSLA, etc.

238. The analysis of complaints about the decisions to refuse to provide FSLA in practice contributed to the identification of new vulnerable groups, that should be FLA beneficiaries - internally displaced persons, persons in need of assistance in obtaining such status and persons in need of legal assistance in obtaining veteran status. Based on such analysis it was also concluded at one point, that there was a need to reduce the criterion of income level for relevant vulnerable group.

239. The CCLAP also provided information about Community Legal Survey, which was launched in 2019⁶. The methodology of the survey was developed by professional sociologists, and the survey itself was conducted independently by staff of the CCLAP.

240. Considering the accumulated information during this evaluation, it was concluded that the gathered statistical data within the FLA system is used and analysed by the MoJ to:

- determine the policy problem and its scale (for example, 56% of citizens are unaware of their rights);
- choose the most relevant tools and mechanisms for solving the problem;
- plan an effective policy implementation course;
- make an objective assessment of policy implementation;
- receive feedback from direct beneficiaries of the policy.

⁶ <https://www.legalaid.gov.ua/ua/statistics-ukr>



241. The following examples can be named:

- The Survey of Legal Problems and Needs in Ukrainian Communities in 2018, which was aimed to clarify the existing legal problems of the population and the means to settle them.
- Survey about the societies awareness of the FLA system, rights of detainees, and victims of domestic violence. It is foreseen that the results of the survey will help to predict the need for legal protection of certain categories of citizens, identify the optimal ways and means of improving FLA.
- Ukrainian legal aid needs map, relevant institutions and partners of the FLA system - contains a list of key elements of the FLA system, namely contact details of regional/ local FSLA centres and FLA bureaus, general information about the functions and tasks of the FSLA centres, including the FLA bureaus, a list of the main legal issues in the context of each local FSLA centres, that are relevant to each region, a register of partner organizations and non-governmental FLA providers, information about inter-regional resource-communication platforms.
- The action plan for the implementation of the legal awareness project “I HAVE A RIGHT!”, approved by the Decree No. 2633/5 of the MoJ dated August 22, 2019, contains “Monitoring of legal problems and needs of citizens in legal information”, which provides for:
 - the analysis of the issues, which are addressed to the central executive bodies, state institutions, in order to identify key legal problems and citizens’ needs for legal information and submission of such information to the MoJ;
 - conducting sociological surveys to identify the legal needs of citizens;
 - analysis of information submitted by central executive bodies and state institutions on key legal problems and needs of citizens, with the aim to design legal awareness campaigns within the project “I HAVE A RIGHT!”.
- Gathering of data about appealed CCLAP decisions by individual agencies (for example, summarizing the data from the Government Contact Centre⁷, the MoJ Call Centre)
- Public opinion polls on specific issues (like, data from the Governmental Contact Centre⁸, UNICEF U-Report Youth Survey⁹).
- Sociological research about legal services.

242. It also must be pointed out that at the government’s resolution to approve the methodology for research and analysis of legal problems and needs of society in Ukraine will allow to:

- unify policy-making processes in ministries;
- create a single, sustainable mechanism for society legal needs assessment;
- ensure that societies legal needs assessment is used in public policy development at all levels.

⁷ www.ukc.gov.ua/a-statystyka-a/informatsiya-shhodo-zvernen/

⁸ <https://www.ukc.gov.ua/survey/>

⁹ <https://ukraine.ureport.in/polls/>



243. Expected results of the legal needs assessment project:

- assist the ministries to focus on relevant issues that concern the society in Ukraine. Previously the main problem during the formulation of new policy initiatives was connected to the fact, that issues, that had to be solved were not specified and the impact of decisions wasn't taken into account, priorities were determined blindly. Consequently, the results were non-systematic.
- analysis of legal needs of the society in Ukraine will make it possible to put the needs of the society in the centre of public policy.

244. Considering the previously mentioned information, it can be concluded that the use of statistical data and evidence-based approach regarding all FLA policy and regulatory initiatives is already now being actively implemented and therefore the level of attainment of this outcome could be scored as amounting to 95% of the target. Nevertheless, there is a need to continue to focus in the future even more on a regular national wide legal need's assessment.

245. Recommendation: To ensure effective developments of the FLA system, there is a need for CCLAP to carry out a comprehensive, coordinated, structured, national wide legal needs assessment.

Scope of the legal aid system Level of attainment 65%

Outcomes – Expanded accessibility and scope of legal aid; Access to secondary legal aid in civil and administrative cases; Increased proportion of primary legal aid

246. As of July 1, 2015, the provision of FSLA to all categories of persons defined by the Law on FLA was also ensured in civil and administrative cases. That, of course, greatly expanded the scope and access to FSLA. According to preliminary estimates made by the CCLAP in 2015, approximately 8 million people could become beneficiaries of the FLA system.

247. Subsequently, the Law of FLA was amended several times, affecting access to FLA and its scope:

- children, including orphans, children deprived of parental care, children in difficult living conditions, children who have suffered as a result of hostilities or armed conflict were introduced as potential beneficiaries of FSLA (amendments to the Law of FLA of January 26, 2016);
- persons covered by the Law of Ukraine “On refugees and persons requiring additional or temporary protection” from the moment a person submits an application for recognition as a refugee or a person, which needs additional protection in Ukraine, until the final decision on the application is made, as well as foreigners and stateless persons detained for the purpose of identification and enforcement of compulsory expulsion from the moment of detention, were introduced as potential beneficiaries of FSLA (amendments to the Law on FLA of May 19, 2016);
- the income criterion to be eligible to receive FSLA was reduced, the right to FSLA for internally displaced persons and persons intending to obtain such status was established, the range of legal services for veterans was expanded, and the right to FSLA for persons intending to obtain such status was established (amendments to the Law on FLA of December 21, 2016);



- persons who have suffered from domestic or gender-based violence were introduced as potential beneficiaries of FSLA (amendments to the Law on FLA of December 7, 2017);
 - restriction to receive FSLA no more than six times during the fiscal year, and no more than six orders / orders for the provision of FSLA issued by centres for the provision of FSLA at the same time, was introduced (amendments to the Law on FLA of July 3, 2018). These changes concerned the categories of persons who generally received FSLA in civil and administrative cases, not in criminal cases.
248. At the beginning of the implementation of the JSRSAP, local FSLA centres provided only FSLA via contracted advocates.
249. In order to meet the needs of the FPLA, local FSLA centres established cooperation with local FPLA providers - state organizations and NGOs. To support and develop such a partnership, separate units were established in the structure of the local FSLA centres. The heads of these divisions, the “integrators”, were selected with the help of a competition organised by CCLAP. As a result of the work done by “integrators”, clients who turned to local FSLA centres were referred to local FPLA providers.
250. The findings of the performance review of local FSLA centres since their launch in 2015, was carried out by the CCLAP and it revealed four systemic issues:
- the lack of FLA access points in remote areas. Notably, 90 percent of clients of local FSLA centres were residents of the same district where the centres were located, and only 10 percent of clients were from neighbouring districts under the same jurisdiction;
 - the lack of capacity of local FSLA centres to provide FPLA services, whereas 80 percent of their clients mainly needed legal information and advice and only 20 percent of clients needed FSLA services such as representation before court;
 - inability to provide services to individuals in remote areas who did need representation before court due to the lack of available advocates in such areas;
 - low level of legal culture among communities, and the tradition of settling legal matters in an unlawful manner which fosters corrupt practices.
251. To address these problems, it was decided to use some of the resources that had become available following the structural reform of the MoJ and the dissolution of more than 600 Soviet-style agencies of justice and set up additional access points to FLA services and add new functions to the FLA system to meet the needs of territorial communities.
252. The MoJ issued the Order No. 2748/5 “On the Reform of Territorial Agencies of the MoJ and Development of the FLA System” of December 25, 2015. The Action Plan approved by this order of the MoJ set the tasks to develop a relevant resolution of the CMU, provide the funding and set up the infrastructure of Legal aid bureaus, select staff, etc. The CMU accepted the MoJ’s proposal to establish Legal aid bureaus as structural units of Local FSLA centres and adopted the Regulation No. 99 “On the Reform of Territorial Agencies of the MoJ and Development of the FLA System” of February 11, 2016.
253. On May 24, 2016, the Regulation on the Centres for the Provision of FSLA (approved by the MoJ’s Order of July 2, 2012 No. 967/5) were revised. The new powers of the local FSLA centres provided for greater access to the FPLA and included:

- visits to persons, including single, elderly, disabled people, at their place of residence for the purpose of providing FPLA;
 - development of a network of remote FLA access points and their functioning on a permanent basis;
 - provision of FPLA by mobile FLA access points;
 - provision of FPLA by employees of the FSLA centres;
 - provision of FLA by legal aid bureaus.
254. Accordingly, 429 (now 428) Legal aid bureaus were established and launched their operations on September 1, 2016, across the territory of Ukraine. Legal aid bureaus are standalone units within local FSLA centres. The main tasks of Legal aid bureaus are:
- running legal awareness raising activities in territorial communities;
 - providing FPLA services;
 - providing access to FSLA services;
 - providing FSLA services (except defence services);
 - providing access to the e-services provided by the MoJ.
255. A remote FLA access point – is a permanent FLA access point operating according to schedule on the premises of an institution, organization, or establishment and providing services for individuals who need FLA but are unable to go to a local FSLA centre (Legal aid bureau) due to various reasons (i.e. geographic remoteness, lack of time etc.).
256. A mobile FLA access point – is a FLA access point set up during scheduled trips to geographically remote, hard-to-reach areas, as well as at the actual place of residence of individuals with special needs or at the location of specialized institutions (i.e. hospitals, assisted living facilities, geriatric facilities etc). Such points are set up based on the assessment of the needs of communities for FLA. They can be set up by local FSLA centres unassisted as well as by assigning staff members of local FSLA centres to mobile FLA access points set up by other institutions (such as social service centres for families, children, and youth), executive agencies, and local self-government bodies.
257. The Regulation of organization of remote and mobile access points was approved by the CCLAP Order No.140 of March 31, 2017.
258. From the statistical data accumulated in 2018 it can be concluded, that FPLA (access to legal information and advice) amounts up to 80% of cases of FLA (553.3 out of 719.7 thousand).
259. Considering the previously mentioned information, it can be concluded that the accessibility and scope of legal aid has been expanded, access to secondary legal aid in civil and administrative cases has been ensured and proportion of primary legal aid has been increased, therefore the level of attainment of these outcomes could be scored as amounting to 90% of the target. Nevertheless, there are certain issues that should be addressed.
260. Recommendation: it is advisable to review the legality and justification of the restriction to receive FSLA no more than six times during the fiscal year. Of course, it needs to be evaluated in context of the recommendation regarding the development of a clear and detailed merits test. The reason for that is as follows – if the policy maker has decided to limit the access to FSLA, then it is strongly advisable to do that based on merit and not on a numerical limitation.



Outcome – Potential expansion of legal aid to cover expertise and expert testimony (– Possibility of coverage for expertise and expert testimony in legal aid cases)

261. The Law on FLA does not cover such legal services as expertise or expert testimony. However, according to procedural law, a person may include the costs of the examination into the legal costs and, if a decision is made in his or her favour, the costs will be recovered from the other party.
262. According to paragraph 2 of Article 29 of the Law on FLA, FSLA is financed by the expenditures of the State Budget of Ukraine. Expanding the list of services that should be covered by the FSLA system, naturally would lead to an increase in expenditures from the State Budget of Ukraine, which is foreseen for the FLA system.
263. Given the abovementioned, initiatives to expand legal services within the framework of the provision of FSLA should be accompanied by a proposal to amending the Law “On the State Budget” of Ukraine and increase the funding for the FLA system.
264. There are no plans to prepare draft amendments to the legislation on reimbursement of expertise or expert testimony costs within the framework of the FLA system by 2020.
265. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is not and will not be reached, therefore the level of attainment of this outcome could be scored as amounting to 0% of the target.
266. Recommendation: about expenses that should be covered by FLA system, as formulated in paragraph 148 of this report.

Outcome – Possibility of legal aid for victims and (special) witnesses in criminal process

267. The Law of FLA does not foresee witnesses or victims in criminal proceedings as separate FSLA beneficiaries. Provision of FLA to victims and witnesses in criminal proceedings is not provided separately under the relevant procedural status, but they are entitled to FLA on a general basis in accordance with the Law on FLA.
268. In 2017, the CCLAP developed relevant legislative proposals, which were by the MoJ included in one of the draft amendments of the Law on FLA and submitted to the CMU. This project was not considered by CMU in substance and was returned to the MoJ for technical reasons. Based on the information provided, the CCLAP and MoJ, it is not planned to resolve this issue until the end of 2020.
269. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is not and will not be reached, therefore the level of attainment of this outcome could be scored as amounting to 0% of the target.

Outcome – Clear and definite grounds for obtaining legal aid in all types of cases

270. The grounds for providing FLA are set out in the Law on FLA. In general, the right to receive FLA depends on the status of the person applying for the FLA, as well as the persons financial situations and in some case the type of legal matter.
271. **FPLA**: According to Article 8 of the Law on FLA, in order to obtain a FPLA, a person must be under the jurisdiction of Ukraine, that is, be a citizen of Ukraine or a foreigner or stateless person legally resident in the territory of Ukraine. Article 10 of this Law defines the procedure for applying for a FPLA, which includes:

- opportunity to apply in writing or orally;
- age restriction – person must be of legal age;
- defined deadlines for consideration and provision of a written answer;
- prohibiting the establishment of a fee for providing FPLA services or forms of documents related to the provision of FPLA;
- an obligation to clarify the procedure for applying for a FSLA if the applicant's issues cannot be resolved by providing an FPLA.

272. Article 11 of the Law on FLA defines the procedure for consideration of oral appeals (so-called “personal reception”) for the receipt of a FPLA, which should be carried out on a publicly announced schedule by highly qualified employees.

273. The practical implementation of the Law on FLA revealed the following issues:

- theoretically in accordance with the Law on FLA, the provision of FPLA in written can take longer than the provision of FSLA;
- there are still no unified minimum quality standards, that would apply to all FPLA providers.

274. **FSLA:** in order to receive FSLA, the person must meet the criteria set out in Article 14 of the Law on FLA. Articles 18-20 and 23 of the Law on FLA define the procedure for applying for FSLA, the procedure for considering such applications and for making appropriate decisions, which includes:

- the need to send a written application to the regional or local FSLA centre (or the territorial body of the MoJ);
- the need to submit, together with an application for FSLA, documents confirming that they belong to one of the vulnerable groups identified in part one of Article 14 of this Law;
- the timing of consideration of applications, making decisions on the provision of FSLA or refusal to provide FSLA, the obligation to inform applicants in writing of the decisions taken;
- a special decision-making procedure for the provision of FSLA (in a “criminal cases”);
- an exhaustive list of reasons for deciding to refuse to provide FSLA;
- an exhaustive list of reasons for the decision by the FSLA centre to discontinue the provision of FSLA.

275. The practical implementation of the Law on FLA revealed the following issues:

- the Law on FLA does not clearly distinguish between the categories of persons who have the right to apply for FSLA and the means eligibility criteria;
- the Law on FLA does not foresee a clear set of merits test criteria, which would allow the CCLAP to evaluate in civil or administrative matters the merits of the case;
- the Law on FLA does not specify the specific documents that must be submitted to obtain a FSLA;

276. Confirmation of the income level of the person applying for FSLA based on paragraph 1 (1) of Article 14 of the Law on FLA is a complicated procedure and may require several documents from different state bodies. FSLA centres do not have the authority to independently find such information about a person in the relevant state registers. The income level of a person may vary, and government bodies cannot issue a document



with a long validity period to confirm the level of income, which means that for every request for granting the FSLA, all the necessary documents must be submitted more than once.

277. The CCLAP has resolved some of these issues by generalizing the practice of providing FSLA and issuing its own orders (the latest revisions were dated January 28, 2019 No. 2 and July 19, 2019, No. 60). These orders regulate in detail the procedure for providing FPLA and FSLA to local FSLA centres (either directly or with the involvement of FSLA advocates or partner organizations).
278. The issue though is that these orders are not binding towards persons who do not work within the FLA system. For example, the text of the orders directly stipulates that a person may provide any other documents confirming their belonging to vulnerable groups, except those specified in these orders.
279. In addition, the CCLAP has come forward with a legislative initiative to amend Law on FLA to give FSLA centre staff access to public registers containing information on the income level of persons applying for FSLA.
280. The CCLAP and the MoJ are also working hard to inform potential beneficiaries of FLA services, of the procedure and grounds for obtaining all types of FLA. For this purpose, regular information campaigns are conducted, as well as this information can be obtained at all FSLA centres, Legal aid bureaus, FLA system call centres, partner organizations, etc.
281. In practice, the following differences were found (in comparison with the requirements in the Law on FLA):
- the overwhelming majority of applications, together with the documents confirming the compliance with the criteria, are submitted to the centres of FSLA directly, not by mail;
 - the actual timing of consideration of applications for granting a FLA is much shorter, but, of course, the main reason for that is that the responsible authorities do not need to draft additional information requests or gather information about the income level of the person applying for FSLA.
282. In general, it should be recognized that the Law of FLA is not very clear, especially regarding the means and merits criteria and the procedures how FSLA can be obtained, but CCLAP has made significant steps to improve the situations in practice.
283. Recommendation: about for means and merits test criteria, as formulated in paragraph 152 of this report.
284. Recommendation: deadlines for the provision of FPLA in written (Article 10 paragraph 4 and 5 of the Law on FLA) should be shortened, so that based on the regulations of the Law on FLA a person could receive FPLA in written in a shorter deadline than FSLA. That would also be in line with the main aim of FPLA – early intervention (fast access to legal information, advice etc.)
285. Recommendation: It would be advisable for the MoJ and the CCLAP to consider amending the Law on FLA and to outline concretely types of documents that confirm a person's affiliation with vulnerable groups, as well as to review the procedures for obtaining FSLA and the deadlines for granting or refusing to grant FSLA.
286. Accordingly, the level of attainment of this outcome could be scored as amounting to 75% of the indicated target.

Management of the legal aid system Level of attainment 75%

Outcome – Increased capacity for management, oversight and decentralized service delivery of the legal aid services by CCLAP, legal aid centres, contracted lawyers, and other key delivery partners

287. Considering the information received from the relevant authorities, it can be concluded that increased capacity for management has been directly linked with decentralization of services in the FLA system in the following areas:

- management decision making;
- financial decentralization;
- human resources management;
- monitoring of the activities of the FSLA centres for providing FLA.

288. As a result of decentralization, all functions that could be effectively implemented at the lower level of the FLA system were accordingly transferred to regional and local FSLA centres.

289. Based on other available sources of information, such as reviews of the FLA system^{10,11}, it can be concluded that the reasons for increasing capacity of FLA providers were:

- introducing a unified approach to the implementation of the FLA system across the country in combination with the best practices of individual FSLA centres;
- identifying key indicators for monitoring the performance of the FLA system;
- analysis of statistics and other information;
- strategic planning and effective control over the implementation of plans;
- continuous improvement and simplification of all key processes;
- defining the qualification requirements for all positions in the FLA system and their systematic updating in accordance with new realities;
- competitive selection for positions in the FLA system;
- regularly changing the structure of CCLAP and FSLA centres to meet new needs and challenges;
- creating the training system for FSLA advocates;
- establishing cooperation with key stakeholders and FLA providers;
- attracting additional resources for the development;
- transparency in management;
- proper quality of communication.

290. Another important factor that was mentioned by MoJ - in order to ensure the independence of the management of the FLA system, the transparency of its procedures and the effective implementation of state policy in the field of FLA, a Supervisory Board of the CCLAP will be established.

291. The Supervisory Board is a new model for managing a FLA system. Its functions will be aimed at ensuring equal access to justice, so that citizens can exercise their right to protection and legal assistance.

¹⁰ <http://qala.org.ua/en/e-library/publications/>

¹¹ <https://www.legalaid.gov.ua/ua/kontrol-za-diialnistiu-systemy-bpd/zvity-pro-diialnist-systemy-bpd>



292. The Supervisory Board will consist of nine individuals representing various stakeholders (external and internal) of the FLA system. They work on a pro bono basis. The term of such a position is a maximum of five years. The members of the Supervisory Board will be selected on a competitive basis by the commission.
293. The Supervisory Board will have broad powers. In particular, it will oversee the activity of the FLA system, prepare proposals for the appointment and dismissal of the Head of the CCLAP, will hear annual reports on the functioning of the FLA system, in particular the financial one. In addition, the Supervisory Board will identify and evaluate political, financial and other risks, provide recommendations for preventing or managing them.
294. In order to implement the concept of the Supervisory Board of the CCLAP, the Regulations on the Supervisory Board of the CCLAP (decree of the MoJ No.2551/5 of September 14, 2019) and the Regulations on the competition for election of members of the Supervisory Board of the CCLAP (decree of the MoJ No. 2550/5 of September 25, 2019) have been adopted.
295. As of October 11, 2019, the Supervisory Board has not yet been officially formed.
296. In general, it should be recognized that the responsible authorities have done a lot in the area of increasing capacity for management, oversight and decentralized service delivery of the FLA services by CCLAP, FSLA centres, contracted lawyers, and other key delivery partners. Nevertheless, there are certain issues that have not been addressed and some recommendations that can be provided.
297. Recommendation: about the training system for CCLAP staff, as formulated in paragraph 122 and 162 of this report.
298. Recommendation: it would also be advisable review the already existing concept of the independent FPLA provider and plan the necessary steps to implement such a concept in practice, or to the contrary evaluate the possibility to introduce within the FLA system certain types of external stakeholders of the FLA system.
299. Recommendation: Considering that “peer review” has been chosen as the most efficient and effective tool for measuring the quality of the provided FLA by advocates, it would be advisable to plan addition measures/steps to ensure that the Expert Legal Analysis Commission in practice can work and demonstrate first results. Because the main hurdle currently is the lack of cooperation with UNBA, the signed MoU should be revisited, and a solution should be found as fast as possible.
300. Accordingly, the level of attainment of this outcome could be scored as amounting to 80% of the indicated target.

Outcomes – Facilitated interactions among all actors in primary legal aid system; Increased role of local self-governance bodies, CSOs, and HEIs in providing primary legal aid

301. Over the period 2015-2019, FSLA centres have developed more than 1,700 topics of guidance for self-government bodies aimed at enhancing the capacity of self-government bodies to provide the FPLA independently and through involvement with, or interaction with, other FPLA providers. More than 2,300 trainings have been organized and conducted for local self-government bodies on how to improve the organization of the FPLA.



302. The CCLAP developed the manual “Program of providing FLA: development, planning, implementation, reporting”, and carried out a series of communication activities for its presentation in 22 regions of Ukraine.
303. In order to develop a network of partners and independent providers of FLA, regional and local FSLA centres have established cooperation with more than 2349 NGOs.
304. Together with local NGOs, CCLAP Pravokator Offices conduct a number of thematic events in the regions.
305. In the spring of 2019, a competition was held to support regional initiatives of “public advisers” (paralegals who were selected on a competitive basis and received special training under the program jointly implemented by IRF, ULAF, LDN and CCLAP), with the support of 7 regional projects.
306. The CCLAP noted that despite the involvement of local communities in providing FPLA, the legal awareness initiatives are still low. In addition to the efforts made by the CCLAP and its partners to change the situation, it is important to complete the decentralization reform and to ensure that the self-government bodies have sufficient resources to fulfil these functions. The CCLAP is currently developing synergies with local FSLA centres and partner organizations to redirect persons in need of FPLA.
307. In order to enhance the role of HEIs in providing FPLA, a pilot initiative was launched to implement a model of an independent FLA provider at the “Pro bono” Law Clinic of Taras Shevchenko National University of Kyiv. This initiative is foreseen in the Memorandum of cooperation concluded between the CCLAP, the Law Faculty of Taras Shevchenko National University, the MoJ, the UNBA and the ULAF. The creation of access points to FLA on the basis of legal clinics will help differentiate the network of FLA providers. A similar memorandum was also concluded between the Donetsk National University, the NGO “Legal Education Foundation”, the UNBA, the ULAF and the CCLAP.
308. There are approximately 70 legal clinics in Ukraine, about 50 of which are members of the Association of Legal Clinics. The process of institutional formation of legal clinics is still ongoing. The results of the monitoring conducted in 2017-2018 about their own compliance with quality standards convinced the Association of the premature legislative initiative to include them as providers of FLA (such attempts were made in 2011-2013).
309. There is a need to popularize the very idea of legal clinics and increase the experience of practical activity. For this purpose, the legal clinics and their Association implement international technical assistance programs and establish systematic cooperation with the CCLAP.
310. Recommendation: about development of unified minimum quality standards for the provision of FPLA, as formulated in paragraph 166 of this report.
311. Based on the findings, conclusions and recommendations that have been elaborated in this Report, it could be suggested the level of attainment of this outcome could be scored as amounting to 65% of the target.



Outcome – Piloting of initiatives foreseen by MoU between CCLAP and UNBA

312. The MoU between UNBA and the MoJ in the field of providing FLA was signed on November 19, 2013 and approved by the Decision No. 230 of the NBC on September 27, 2013 and the Decree No. 2424/5 of the MoJ dated November 15, 2013.
313. This MoU has the effect of a Decision of the NBC and of the Decree of MoJ for the respective subjects and it implies the coordination of joint efforts in the following areas:
- Information exchange (inter alia, the parties disseminate by all available means information on the right of a person to protection);
 - protection of professional rights of advocates, as well as observance of the guarantees of the advocacy (in particular, the parties take exhaustive measures, each within their own competence, to ensure the adequate payment and remuneration to advocates providing FSLA);
 - development, approval and implementation of quality standards for providing FLA (in particular, the parties formed a working group to develop these standards and defined quality standards for the providing FSLA in criminal proceedings);
 - monitoring and evaluation of the quality of FSLA provided by advocates (in particular, the departments of monitoring the quality of FSLA were established, and the CCLAP organized the selection of candidates for the positions of heads of quality assurance departments in the FSLA centres);
 - training for advocates.
314. This MoU was implemented through continuous cooperation between UNBA and the MoJ, including joint projects, trainings, monitoring and evaluation of the quality of FSLA provided by advocates, protection of advocates' professional rights, promotion of advocates' participation in tenders for the provision of FSLA, social advertising on realization of access of all citizens to FLA and guarantee of its quality.
315. UNBA informed, that also, in cooperation with the CCLAP, the development and submission for approval of Quality Standards for the provision of FSLA in administrative and civil cases, as well as the provision of FSLA in criminal proceedings, were carried out. Meetings of the Free Legal Aid Committee are regularly held, with the participation of representatives of the CCLAP, to resolve various issues related to the provision of FLA by advocates, in particular, to address appeals and complaints about the shortcomings in the work of some FLA System officials and advocates providing FSLA.
316. Taking into account the analysis of the confirmed shortcomings in the work of the FSLA centres or advocates, appropriate decisions are made to address them. Currently, proposals are being prepared jointly with the CCLAP and the NGO to improve the provision of FLA to persons with disabilities, which will result in appropriate changes and additions to the quality standards for the provision of FLA to such persons. The Committee's meetings considered proposals to amend the Law on FLA, the Orders of the MoJ and the CMU decrees concerning the FLA system.
317. In order to improve transparency of the distribution of assignments in regional FSLA centres, a proposal was made to adopt standard procedure on the distribution of assignments that is done by local FSLA centres.
318. Based on the findings, conclusions and recommendations that have been elaborated in this Report, it could be suggested the level of attainment of this outcome could be scored as amounting to 80% of the target.

Outcome – Increased role of Ombudsman in legal aid system by investigating certain cases (for instance, where judicial remedies were unused or unavailable), as well as developing practice guides and other readily-made materials to be used as legal aid resources

319. On December 10, 2013, a Memorandum of Understanding was concluded between the Ombudsman and the CCLAP.
320. The purpose of this MoU was to consolidate the efforts of the two parties aimed at preventing violations of human rights and freedoms, in particular the right to FSLA. The conclusion of this MoU served as the basis for cooperation between the regional FSLA centres and representative offices of the Ombudsman, primarily with regard to ensuring the right to protection of detainees, arrested and prisoners.
321. Representatives of the Ombudsman and NPM, having the opportunity of unhindered access to such persons, could detect violations of the right to defence and facilitate its restoration. The result of such cooperation was changes (CMU Regulation No. 793 of October 18, 2017) of the Procedure for informing centres about cases of detention, administrative arrest or application of a preventive measure in the form of detention in custody, as approved by CMU Regulation No. 1363 dated December 28, 2011.
322. According to these changes, the Ombudsman, his representatives and regional offices received the authority to inform the regional FSLA centres of all cases of relevant detentions, which could use this information to immediately appoint an advocate and send him to the detainee to provide FSLA.
323. On May 25, 2018, a Memorandum of Understanding was signed between the Ombudsman and the CCLAP.
324. The areas of cooperation included joint monitoring activities in various fields in order to identify human rights violations and provide effective assistance; identification of the facts of ill-treatment in places of detention; conducting the right educational activities.
325. To implement the provisions of the MoU, the Ombudsman was informed by CCLAP about 25 representatives of regional FSLA centres, that are delegated to participate in the NPM monitoring visits.
326. Since the beginning of the 2019, NPM has conducted 480 monitoring visits to places of detention. Representatives of FLA system participated in 5 monitoring visits.
327. Almost 80% of NPM reports from monitoring visits to various types of places of detention (prisons, nursing homes, hospices, orphanages, etc.) found that detained people were not properly informed about their rights and obligations and were not able to obtain legal assistance from the FLA system.
328. In addition to that, during the review it was concluded that no practice guidelines and other readily-made materials were developed to be used as FLA resources during the implementations of the JSRSAP, and that there is also no plan to develop something like that in the future.
329. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is not and will not be reached, therefore the level of attainment of this outcome could be scored as amounting to 0% of the target.
330. Recommendation: taking into account that based on NPM report most of the people in various types of places of detention were not properly informed about their rights and



obligations and were not able to obtain legal assistance from the FLA system, it would be advisable to strengthen the work of the FLA system in the direction of educational activities/ legal empowerment for persons in places of detention.

331. Recommendation: it would be strongly advisable for CCLAP to ensure a more active participation of its regional centre staff in the NPM monitoring missions.
332. Recommendation: it would be advisable for MoJ and CCLAP need to maintain permanent communications channels with the Ombudsman's office for the purposes of implementing the MoU previously concluded, and if necessary, to set up working groups on common issues concerning FLA system (including, development of unified quality standards for the provision of FPLA, developments of practical guidelines etc.

Outcome – Improved access to counsel and right to representation for specified categories of citizens, including convicts

333. During the mid-term evaluations of the JSRSAP, it was concluded that no measures have been taken to achieve this outcome, especially because in principle this outcome was already reached before the JSRSAP was adopted. Therefore, the level of attainment of this outcome could be scored as amounting to 100% of the target.

Outcome – Strengthened capacity of regional SCLAPs and establishment of the optimal number of local (inter-district) SCLAPs

334. In 2015, 100 local FSLA centres were established to provide FSLA in civil and administrative matters. Both then and now regional FSLA centres direct, coordinate and control the activities of local FSLA centres, as well as perform a number of important management functions.
335. Increasing the number of functions, working remotely, and fundamentally new processes for providing FLA, required that the capacity of regional FSLA centres is strengthened, which was achieved through appropriate training, planning, function review, structure change, allocation of additional resources and more.
336. All changes concerning the scope of powers of local FSLA centres were also implemented within the competence of regional FSLA centres. It can be acknowledged that the human, financial, organizational capacity of the regional FSLA centres is now sufficiently high to allow for “own” functions to provide FLA, as well as to properly manage the local FSLA centres.
337. Currently 84 local FSLA centres are operating. Based on the information provided, it can be concluded that the number of local FSLA centres was reduced as part of a policy to encourage remote provision of FLA services, reduce administrative costs, and streamline processes. It seems that such a number of local FSLA centres are sufficient to ensure the manageability of the FLA system and the provision of FLA services to the required extent.
338. Considering the previously mentioned information, it can be concluded that level of attainment of this outcome could be scored as amounting to 100% of the target.

Outcome – Rollout of full-fledged free legal aid system in place in selected regions (- Integrated full-fledged free legal aid system rolled out and in place in selected regions)

339. In accordance with the Article 61, 9 and 15 of the Law on FLA, the FLA system consists of the following stakeholders:
- CCLAP;
 - FPLA providers (executive authorities, local self-government bodies, individuals and legal persons, specialized institutions, FSLA centres);
 - FSLA providers (FSLA centres and FSLA advocates).
340. The CCLAP reported that the FLA system is now a network of 535 points of access to legal services: 23 regional FSLA centres, 84 local FSLA centres and 428 Legal aid bureaus in all regions of Ukraine, as well as the CCLAP itself.
341. It should be noted that all centres and bureaus provide FPLA, that is, perform those functions that FPLA providers should perform, which at the time of adoption of the JSRSAP, was not planned.
342. The MoJ and the CCLAP ensure the provision of FPLA and FSLA through a system of institutions that they are able to effectively coordinate, at the same time the involvement of other FPLA providers defined by the Law of FLA can be evaluated as less significant.
343. Nevertheless, as mentioned before in this mid-term evaluations report, there isn't a clear definition what "roll-out of full-pledged legal aid system" means. There is no explanation about that in the Law on FLA, as well as in the JSRS. For that reason, it is difficult to assess whether the outcome of the JSRSAP has been reached.
344. Despite the previously mentioned, it should be noted that most of the changes in the FLA system were never introduced in selected regions, but rather throughout the whole territory of Ukraine at the same time.
345. Considering the previously mentioned information, it can be concluded that the responsible bodies have come probably much closer to the ultimate goal of deploying a full-pledged FLA system but may have achieved this in a different way than envisaged by the JSRSAP. Therefore, the level of attainment of this outcome could be scored as amounting to 95% of the target.
346. Recommendation: about need to define what "full-fledged free legal aid system" means in context of the JSRSAP, as formulated in paragraph 182 of this report.

Legal aid providers Level of attainment 70%

Outcome – Increased effectiveness and efficiency of legal aid service providers and managers to respond to the needs of citizens

347. Partly this outcome is demonstrated already in the description of other outcomes. The efficiency and effectiveness of FLA service providers and managers have been improved by assessing legal needs and considering these needs, using statistics, planning activities and monitoring plans, creating a system of training for advocates, as well as ensuring capacity strengthening activities for CCLAP staff, implementing new management tools, involvement additional resources, engaging with other stakeholders, etc.



348. A good example, that has not been mentioned before is WikiLegalAid Legal¹² - Advice and Information Platform, which now contains over 1500 legal advices, as well as links to legal acts, court decisions, sample procedural documents, and more. WikiLegalAid's updates are provided by more than 400 FLA system staff and partners. This platform is used to provide FLA, save effort, improve the quality of FLA services and is based on real legal needs. The platform is posted online and can be used by lawyers, paralegals, and other interested parties.
349. WikiLegalAid is used by employees of the FLA system call centre, which allows to ensure quick and remote consultation. The analysis of requests and consultations provided is also a tool for the study of legal needs and is taken into account for the further development of WikiLegalAid.
350. On average, the call centre of the FLA system receives from 20 to 30 thousand calls per month. Between January 1, 2019 and September 12, 2019, the number of WikiLegalAid user sessions was 480 235, pageviews amounted to -719 962
351. Considering the previously mentioned information, it can be concluded that level of attainment of this outcome could be scored as amounting to 90% of the target.

Outcome – Improved access to secondary legal aid through streamlined lawyer assignment process

352. Based on the information gathered during the mid-term evaluation it was concluded that there is not much evidence that the advocates assignment process has been streamlined or that there have been any specific activities done to streamline the advocate assignment process.
353. Therefore, there are some still outstanding issues relates to this outcome, because the FLA case distribution process among advocates can still not be called transparent and first and foremost understandable to the FSLA beneficiaries. The existing regulations of the Law on FLA do not regulate in detail the assignment process, because it is done in accordance with CCLAP inner procedures.
354. It should also be taken into account, that ensuring an equal distribution of cases should not be the main goal, because the main criteria that should be taken into account is best interests of the FLA beneficiaries, and not ensuring an equal workload for advocates.
355. Recommendation: it would be advisable to review the possibility to regulate the whole FLA provider assignment process in the Law on FLA, because process itself is focused and directly impacts the FLA beneficiary. From a legislative standpoint it is not advisable to regulate with inner procedures processes aimed at society, because it should be clearly regulated, transparent, effective, fair and understandable by the FLA beneficiary.
356. Recommendation: it would be advisable to revisit criteria for appointment of advocates (Article 21 paragraph 2 of the Law on FLA) and possibly include additional criteria, like interest of conflict (which is very relevant for rural areas), distance between FSLA beneficiary and FSLA advocates, etc.

¹² <https://wiki.legalaid.gov.ua>

357. Recommendation: It should also be evaluated if the regulations of the Law of FLA could be revised and in some instances the person's right to choose its own advocate could be respected – for example, when the FSLA beneficiary in civil and administrative cases has already worked with an advocate, who is a FSLA provider.
358. Recommendation: it would be advisable for the CCLAP not to strive to ensure equal distribution of cases among advocates, but rather monitor and intervene when it is evident that the system is being misused.
359. Accordingly, the level of attainment of this outcome could be scored as amounting to 20% of the indicated target.

Outcome – Enhanced coverage of legal aid providers throughout Ukraine

360. During the implementation of the JSRSAP, coverage of FLA providers has expanded due to the following factors:
- establishment of local FSLA centres (84);
 - setting up a Legal aid bureaus (428);
 - organization of the work of remote and mobile FLA access points (3079);
 - the conclusion of MoU or Cooperation Agreements between the FSLA centres and NGOs providing FLA (579);
 - the adoption by the local government of more than 300 local programs for providing FPLA.
361. As already noted, the coverage of some of the FPLA providers, defined by the Law on FLA, is still low or unknown. The CCLAP and the MoJ do not have accurate coverage information provided by FLA providers that are not expressly authorized by the Law on FLA - NGOs or Legal clinics.
362. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is reached. Therefore, the level of attainment of this outcome could be scored as amounting to 100% of the target.

Communication Level of attainment 90%

Outcome – Communication channels between CCLAP and UNBA, legal aid system bodies, and other State and non-State bodies advanced and used regularly

363. In general, CCLAP seems to have developed communication channels with many organizations and is actively using them.
364. At the same time, it is clear from the information provided that the CCLAP and UNBA differently consider the use of peer review for completed criminal proceedings.
365. This issue concerns the MoU between UNBA, CCLAP, ULAF, UHHRU and the Kharkiv Human Rights Organization, concluded on October 26, 2018. Within the framework of the activities of the Commission acting on the basis of this MoU, the Rules of Procedure of the Commission were approved, the Procedure of Expert Legal Assessment, experts were selected to carry out this evaluation. Nevertheless, UNBA has discontinued its implementation of the Memorandum because it believes that the use of peer review is unconstitutional, in particular because of the risk of breach of the advocate's secrecy. Instead, the UNBA proposes to add a preventive learning function to the competence of Commissions for Assessing the quality, completeness and timeliness of FLA.



366. Another issue between UNBA and CCLAP concerns the development of the FLA system. Current policies pay considerable attention to providing FLA for local communities and involving FLA staff in legal services provision, which is not supported by the UNBA. Instead, UNBA believes the FLA system should evolve in the direction of providing FLA services only by advocates.
367. It was also concluded that the CCLAP and the Ombudsman should enhance their cooperation and communication to achieve the goals set out in the two MoU, in particular, in context of the NPM and CCLAP staff participation in it, as well as in developing practice guides and other ready-made materials resources.
368. Recommendation: As the CCLAP and UNBA both are the backbone of the FLA system, it very important to strengthen their cooperation and communication also in the future, with the aim to reduce divergent approaches, when it comes to the development of the FLA system.
369. Recommendation: about need to further work of Expert Legal Analysis Commission, as formulated in paragraph 299 of this report.
370. Considering the previously mentioned information, it can be concluded that level of attainment of this outcome could be scored as amounting to 80% of the target

Outcome – Expanded public awareness of legal aid system and possibilities for obtaining representation

371. According to a 2013 survey, only 12.5% of respondents said they have heard about FLA, but even a third of them did not know where to go to apply for FLA (2000 people were polled).
372. In 2016, 2002 respondents were interviewed throughout Ukraine, except the occupied part of Donbass and Crimea. 11.9% of them had knowledge about how and where to get FLA, at the same time 33.7% new about FLA, but did not know where to apply for it.
373. In 2018, a similar study was conducted and then already 18.4% of those polled had knowledge of how and where to get FLA, 34.7% new about FLA, but did not know where to apply for FLA.
374. Also, in 2018, the population over the age of 18 (over 2000 people) in four cities (Kherston, Severodonetsk, Zhovti Vody and Sosnovka) were interviewed. Results of the survey were as follows: 23% of the respondents know that there is a FSLA centre in the settlement and 16% of those who knew, had contacted at least once the FSLA centre.
375. In 2018, a sociological survey was conducted on the legal awareness of the residents of Brovary. A total of 305 people was interviewed. Overall, 71% of those polled were aware of the fact that there is a FLA system in Ukraine, 19% have contacted the local FSLA centre at least once, 51% would apply for FLA if there would be such a necessity (another 37% said that they would be likely to apply).
376. In 2015, structural units were established both in regional and local level (regional and local FSLA centres) and put in charge of conducting awareness raising and communication activities at the regional level. In 2016, communication activities at the CCLAP were strengthened by establishing a standalone division of communications and access to public information consisting of two units. Some of the main tasks of the CCLAP division included:
- developing and implementing an awareness raising and communication activities for the FLA system;

- building and promoting the positive image of the FLA system, addressing the needs of the general public for information about the availability of FLA;
 - providing informational support to the CCLAP's activities and review of applications and public requests from individuals regarding FLA;
 - coordinating the activities in specific areas carried out by FSLA centres.
377. By the end of 2016, the FLA system had almost managed to complete the development of the communication network and establish (by adopting relevant administrative documents) the operating principles for all professionals responsible for communications at the CCLAP and FSLA centres, strengthened the communication capacity of the FLA system, and started implementing a systemic approach to the planning and implementation of communication and awareness raising activities.
378. In 2018, a strategic planning document for the FLA system was approved in place of a series of organizational and regulatory documents that regulated previously specific issues of coverage of the FLA system.
379. A media campaign is being carried out on an ongoing basis to raise public awareness of the possibility of exercising their rights.
380. From 2016-2018, 44888 publications were published in print and online media (publications on the social network Facebook on partners' pages; on websites of organizations; in print media; in independent Internet media and on information portals). In addition, a variety of other public awareness raising activities were implemented, like: radio appearances; television appearances.
381. With the support of partners from 2013-2018, 8 videos were prepared on the possibilities of obtaining FLA, which were broadcast on national and regional TV channels as social advertisement.
382. In addition, a number of printed information materials (booklets, brochures, posters, stickers, etc.) were prepared on the possibilities of obtaining FLA and functioning of the FLA system, with a total circulation of 997,000 copies (without taking into account the circulation of educational materials on social-legal issues).
383. For the 2014-2018 period, 41 issues of the electronic digest "Free Legal Aid in Ukraine" were prepared and distributed electronically.
384. In order to enhance legal culture, respect for the law, and clarify the rights and freedoms of citizens, over 113,000 law awareness activities were held on the broader range of issues involving more than 1.2 million from 2016 through the first half of 2019.
385. During the events, more than 3.8 million copies of printed matter were distributed, explaining the rights and algorithms for their use and upholding, addresses of social service agencies and more.
386. Dynamics of the persons applying for FLA from year to year:
- 2015 (starting July 1) - 41,309.
 - 2016 - 275,039.
 - 2017 - 567,340.
 - 2018 - 623,842.
 - The first half of 2019 - 324,747.



387. According to the information provided by clients during the initial application to the FLA system, 9% of them learned about the possibility of obtaining FLA through the media, 7% - during law awareness activities.
388. As part of the implementation of the MoU between the National Police and the MoJ in the field of providing FLA of December 12, 2016 and the Joint Action Plan of the National Police of Ukraine and the MoJ/CCLAP has developed a procedure for placing printed matter with information on the rights of persons to defence and free legal assistance in the bodies and units of the National Police, which was approved on February 20, 2018 by a joint Order No. 433/5/133 of the MoJ and the Ministry of Internal Affairs of Ukraine.
389. This Order defines the mechanism of transfer, receipt and placement in police bodies and divisions, in particular in the premises of duty units, offices of investigators, operatives, rooms for detention and delivered duty units, salons of service cars, detention centres, etc., printed matter with information about the rights to defence and FLA to ensure that persons who have been subjected to administrative detention or administrative arrest have been informed; who, under the provisions of criminal procedural law, are considered to be detained; in respect of which a pre-trial detention order has been selected; in respect of which in criminal proceedings, in accordance with the provisions of the Criminal Procedure Code, the defence lawyer engages an investigator, a prosecutor, an investigating judge or a court to protect his / her purpose or conduct a separate procedural action, as well as persons sentenced to imprisonment or restraint of liberty. 14,500 copies of posters and 14,000 stickers were printed. These products are placed in police bodies (units) throughout Ukraine.
390. Starting from October 2015, a contact centre of the FLA system has been functioning around the clock. Its staff, in particular, receive reports on detention of persons and forward them to the relevant regional FSLA centres, provide citizens with information, advice and clarification on legal issues by phone. The offices of the contact centre of the FLA system are located in the cities of Chernivtsi (2015) and Sumy (2017) and operate on the basis of the relevant regional FSLA centres.
391. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is reached and the public awareness of the FLA system and possibilities for obtaining representation has been expanded. Therefore, the level of attainment of this outcome could be scored as amounting to 100% of the target.

Training system for the legal aid services providers Level of attainment 90%

Outcomes – Involvement CCLAP to the professional development of lawyers providing secondary legal aid; Facilitated interaction between CCLAP and Bar Training Centre; Advanced curricula and Quality materials for training legal aid lawyers; Training system for legal aid lawyers strengthened and expanded

392. During the review it was concluded that the CCLAP in general promotes the professional development of advocates and lawyers working in the FLA system.
393. Since creation of CCLAP Pravokator offices they have offered many learning events for FSLA advocates and joint events for advocates and FLA system staff. This work is systematic, professional and needs based.



394. CCLAP and UNBA recognize that interaction between CCLAP and Higher School of Advocacy of the UNBA (Bar Training Centre) is essential.
395. The Decision of the NBC No. 67 of June 26, 2019 approved the Procedure for upgrading the qualification of advocates of Ukraine. According to this procedure, the advancement of advocates' qualifications is administered under the administration of the Higher School of Advocacy of the UNBA, and the CCLAP and FSLA centres have preferential accreditation conditions as advocates' advanced training operators. The CCLAP and FSLA centres regularly use these opportunities.
396. During the implementation of the JSRSAP, many training programs (including distance learning courses) and materials (manuals, guides, etc.) were created. Some of them are freely available on the electronic resources of FLA providers or partners and have been distributed in print. These training programs and materials are varied and of high quality. As a rule, these resources are used once and are not updated, systematized or concentrated after use.
397. On May 21, 2019, the MoJ, the CCLAP, the ULAF, the LDN, the Association of Legal Clinics signed a MoU on the establishment of the Ukrainian School of Practical Knowledge justice. This school will be set up to seek, research, systematize and disseminate best national and international practices to ensure effective and inclusive access to justice.
398. It is safe to say that the training system for FSLA advocates and FLA system staff has been expanded and strengthened. Nevertheless, there is one outstanding issue that should be taken into account and that is the lack of a full-scale training system for CCLAP staff.
399. Recommendation: about the training system for CCLAP staff, as formulated in paragraph 122 and 162 of this report.
400. Accordingly, the level of attainment of this outcome could be scored as amounting to 90% of the indicated target.

Quality assurance for legal aid services Level of attainment 66%

Outcome – Improving quality standards for providing legal aid and compliance

401. Quality standards for FSLA in criminal proceedings were essentially approved before the adoption of the JSRSAP, with the MoJ Decree No. 386/5 dated February 25, 2014. The mentioned standards were amended four times: with the MoJ Decree No. 920/5 dated June 13, 2014, MoJ Degree No. 1960/5 dated October 13, 2015, MoJ Degree No. 2745/5 dated August 21, 2018, MoJ Degree No. 4054/5 dated December 21, 2018. Last of these amendments introduced the standards of provision of FSLA in special pre-trial investigation (in absentia).
402. Also, the CCLAP's Order No.130 dated December 6, 2018 on monitoring of these quality standards was adopted in a new version. The first CCLAP order was adopted in 2015, also before the adoption of the JSRSAP.
403. CCLAP provided data on the number of criminal proceedings that monitored compliance with quality standards over the last three years:
- in 2016 – 13 941;
 - in 2017 – 14 815;
 - in 2018 – 15 786.



404. In addition, quality for the provision of FSLA in civil, administrative and representation in criminal proceedings were approved by the MoJ Decree No. 4125/5 of December 21, 2017 and the procedure to monitor the quality standards for the provision of FSLA was adopted on 6 December 2018 with the CCLAP Order No 130.
405. As noted earlier, on the basis of a MoU between UNBA, CCLAP, ULAF, UHHRU and the Kharkiv Human Rights Organization, concluded on October 26, 2018, an Expert Legal Analysis Commission has been set up to develop mechanisms to ensure the quality of FSLA in criminal proceedings. Now, the Commission has temporarily suspended its work on UNBA's position on the use of peer review.
406. Based on the findings, conclusions and recommendations that have been elaborated in this Report, it could be suggested the level of attainment of this outcome could be scored as amounting to 80% of the target.

Outcome – Judges oversee minimum quality standards for legal aid representation in criminal cases

407. The relevant authorities provided the following information. That pursuant to paragraph 1 of Article 22 of the Criminal Procedure Code of Ukraine, criminal proceedings are conducted on the basis of adversarial approach envisaging independent assertion by the side of accusation and the side of legal protection of their legal positions, rights, freedoms and legitimate interests by means set forth in the present Code.
408. At the same time, in accordance with paragraph 6 of the abovementioned article, the court, while maintaining its objectivity and impartiality, creates necessary conditions for the parties to exercise their procedural rights and perform their procedural obligations.
409. Thus, Article 78 of the Criminal Procedure Code of Ukraine provides for the possibility of requesting the rejection of a defence attorney, representative in the presence of certain grounds: if the specified person in this proceeding provides or has previously provided legal assistance to the person whose interests contradict with the interests of the person seeking legal assistance; in case of suspension or termination of specified person's right to practice law (termination of the certificate in legal practice and advocacy or its cancellation) in the manner provided by law; if the said person is a close relative or family member of the investigator, prosecutor, victim or any other member of the court; if the said person has participated in the same criminal proceedings as an investigating judge, judge, jury, prosecutor, investigator, victim, civilian plaintiff, civil defendant, expert, specialist, representative of probation authority staff, translator.
410. Pursuant to paragraph 3 of Article 83 of the Criminal Procedure Code of Ukraine, in case of satisfaction of the defence counsel's removal, the representative investigating judge, the court explains to the suspect, accused, victim, civilian plaintiff, civil defendant his right to invite another defence lawyer, representative and gives him for this purpose a pre-trial investigation period of not less than twenty-four hours, and a minimum of seventy-two hours during court proceedings. If the suspect, accused in criminal proceedings, when involvement of a defence counsel is mandatory, does not commit another defence counsel within these time-limits, the investigator, prosecutor, investigating judge, the court shall appoint a defence counsel on their own pursuant to the CPC of Ukraine.

411. Although it can be regarded that the provided and acquired information is linked to the JSRSAP relevant outcome, it is also clear that is not what was meant with it, especially because the procedure described was already in place before the adoption of the JSRSAP.
412. Therefore, after information inquiries from the Supreme court of Ukraine, it can be concluded that the relevant JSRSAP outcome is **not** reached and that no activity during the implementation of the JSRSAP have been implemented to reach this outcome. Therefore, the level of attainment of this outcome could be scored as amounting to 0% of the target.

Outcome – Harmonized reporting system by advocates to Legal Aid Centres

413. Submission of FLA advocate reports necessary for remuneration and reimbursement of expenses are regulated by the CMU Regulation No.465 dated September 17, 2014 and MoJ's Order No. 1702/5 dated October 16, 2014. Both legislative acts have been repeatedly amended.
414. In general, it can be assumed that the advocates' reporting system is functioning, which is also confirmed by UNBA. Despite the fact that the CCLAP is now working on the possibility for the FLA advocates to submit such reports via the IIAS, there are certain issues with the existing system, as also the UNBA has indicated.
415. The UNBA has indicated several circumstances that may demotivate advocates and affect the reporting system. Like, the problem of systematic delays in paying for provided FSLA, outstanding debts were allowed for long periods and large sums (tens, hundreds of thousands of hryvnias).
416. The main problem though is the inequality of the parties to the contract. There is a gradation of payment depending on the day of filing the report. Up to 45 days - 100%, 46-60 days - 75%, 61-90 - 50%, 91-120 days - 25%, 121 days and more - 0%. Advocates that have not filed a report after 121 days typically won't file it at all. As a result, unfinished assignments pile up and confusion occurs. Accordingly, the state has an obligation to pay for the work of advocates during the month, but no penalties are in place for late payments.
417. During the min-term evaluation of the JSRSAP it was concluded, that while the CCLAP has worked and is working on a more efficient reporting mechanism, that could limit or avoid delays in payments for the provided FSLA to advocates, one clear issue still remains, that is recognized by all – the low reimbursement fees for the provided FSLA.
418. Recommendation: the reimbursement mechanism, as well as the fees for the provision of FSLA, should not demotivate FSLA advocates to provide adequate services. Therefore, it would be recommended to review the already existing reimbursement mechanism and the foreseen fees for the provision of FSLA. Possibly evaluate the possibility to go to a lump-sum reimbursement mechanism.
419. Based on the findings, conclusions and recommendations that have been elaborated in this Report, it could be suggested the level of attainment of this outcome could be scored as amounting to 80% of the target.



Outcome – Client satisfaction surveys appropriately used to measure quality of legal aid services

420. Regional and local FSLA centres regularly measure the satisfaction of persons who have received FSLA.
421. Surveys on the quality of work of local FSLA centres and Legal aid bureaus, the quality of received FLA and the need for FLA services are done by filling in client satisfaction surveys and regular sample telephone surveys. This procedure is defined by the CCLAP's Order No.145 dated April 26, 2017.
422. The determination of the client's satisfaction with the FSLA in criminal proceedings is also done by filling in the questionnaires according to the CCLAP's Order No.130 dated December 6, 2018 (the previous version of this Order was adopted in 2015).
423. CCLAP quarterly conducts generalization and analysis of information on the level of satisfaction of persons about the quality of FLA services. Survey results are used to improve the quality of work, identify needs for new services, training and skills development, change processes.
424. Quality standards for the provision of FSLA in civil, administrative and criminal proceedings have been developed considering relevant surveys.
425. In the 2016 and 2018 national surveys, "What do Ukrainians know and think about human rights?", the question was: "If you used FLA, are you satisfied with it or not?".
426. In 2016, the following data were obtained:
- fully satisfied - 25%;
 - more satisfied than not satisfied (18.3%);
 - more dissatisfied than satisfied (26.9%);
 - completely dissatisfied - 17.3%;
 - hard to answer - 12.5%.
427. In 2018:
- yes, satisfied - 59%;
 - no, not satisfied - 41%.
428. Considering the previously mentioned information, it can be concluded the level of attainment of this outcome could be scored as amounting to 100% of the target.

Outcome – Increased role of National Preventing Mechanism under Ombudsman for quality monitoring matters

429. As mentioned before, on May 25, 2018, a MoU was signed between the Ombudsman and the CCLAP.
430. The areas of cooperation included joint monitoring activities in various fields in order to identify human rights violations and provide effective assistance; identification of the facts of ill-treatment in places of detention; conducting the right educational activities.
431. At this time there is no relevant information about the implementation of the MoU or other measures contributed to the outcome. Therefore, it can be concluded that the level of attainment of this outcome could be scored as amounting to 40% of the target.

Outcome – Legal-aid advocates provide greater quality of services

432. Taking into account the information provided in the previous chapters, especially considering the positive findings about the formation of a much more efficient training system for FSLA providers, the improved or introduced quality standards, it can be concluded that FSLA advocates now do provide greater quality of services than it was at the moment of adoption of the JSRSAP. Therefore, the level of attainment of this outcome could be scored as amounting to 100% of the target.

Development of IT tools for the legal aid system Level of attainment 70%

Outcomes – Full electronic legal aid case management; Completion of Complex Information Analytical System for legal aid provision, its link to e-justice

433. For more than 3 years CCLAP is heavily working on the development of IIAS. The main task of IIAS is the accumulation of information on the main processes and key stages of the FLA system.

434. IIAS functionality:

- mechanism of registration of clients and their applications;
- a tool for keeping the Register of FSLA advocates;
- information on contracts with FSLA advocates included in the Register;
- filing complaints and review of the FLA system;
- creation of statistical reports, according to the data which have been entered;
- generation of FSLA advocates' records.

435. The users of the IIAS are CCLAP and FSLA centres staff, and advocates who are contracted - in accordance with their mandate.

436. Development of IIAS is ongoing. The following components are within the framework of the development of IIAS:

- interfaces and design of the first stage of CIAS - software updating for work on registration of clients and their appeals to the local FSLA centres are developed;
- modules of registration of clients and their applications, appointment of advocates' (orders) / orders to staff of local FSLA centres for representation are developed;
- cabinets of advocates/ staff are developed;
- a module for filing remuneration acts by advocates on-line developed;
- updated handbooks of categories of cases, categories of FSLA recipients, additional categories of clients by vulnerable groups not defined by the Law of FLA;
- a mechanism for transferring cases between the FSLA centres was developed;
- the updated special CIAS software for registration of clients and their appeals to local FSLA centres was launched.
- an electronic form of written consultation has been developed;
- developed partner's handbook/ registry and referral mechanism;
- mechanism for generation of advocates' acts developed;
- introduced a module of statistics on the provision of FSLA by local FSLA centres;



- the mechanism of generation of lawyer's accounting documents (travel and accommodation reimbursements) has been finalized;
- developed prototypes of advocates' dashboards (civil, administrative and criminal cases);
- the database structure of the IIAS module (in criminal cases) was developed;
- the main types of pages of the CIAS module in criminal cases were developed.

437. The CCLAP completes the development and plans the implementation of:

- an updated module of an IIAS in criminal cases;
- application programming interface (API);
- electronic digital signature module.

438. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is not yet reached, but nevertheless it should be reached by the end of the implementation period of the JSRSAP. Therefore, the level of attainment of this outcome could be scored as amounting to 80% of the target.

Outcome – 'One-stop-shop' website, providing greater interconnectivity of electronic information sources regarding primary and secondary legal aid and other e-justice services

439. During the evaluation it was concluded that the "One-stop-shop" website development is ongoing.

440. Right now there is one website for the CCLAP (www.legalaid.gov.ua) and separate webpages (altogether 25) for the regional FSLA centres (www.legalaid.gov.ua/ua/tsentry-z-nadannia-bezoplatnoi-vtorynnoi-pravovoi-dopomohy).

441. With the introduction of the "One-stop-shop" webpage, all the regional FSLA centre webpages will be closed and clients will be able to find relevant information in one place.

442. The new webpage is designed to be user friendly, with emphases on first displaying relevant information for the potential beneficiaries of the FLA system. The websites will contain analytical, background information, and news about FLA system activities as well.

443. Websites are and will be updated periodically (daily; minimum - twice a week). Information updates are provided by the communication units of the CCLAP and the FSLA centres, which also receive information from other units.

444. Considering the previously mentioned information, it can be concluded that the relevant JSRSAP outcome is not yet reached, but nevertheless it should be reached by the end of the implementation period of the JSRSAP. Therefore, the level of attainment of this outcome could be scored as amounting to 80% of the target.

Outcome – Automated or on-line systems for measuring user satisfaction

445. There are no automated or on-line systems for measuring user satisfaction and CCLAP has no plans to develop and implement such systems. Therefore, it can be concluded that the level of attainment of this outcome could be scored as amounting to 0% of the target.

Financing of the legal aid system Level of attainment 73%

Outcome – Financing of legal aid system from State budget (in proportion to GDP) at not less than CEPEJ average standard

446. According to the Law of Ukraine “On the State Budget of Ukraine for 2019”, the costs of the formation and operation of a FLA system (classification of expenditures programs code 3603020) and the payment of services and reimbursement of FSLA advocates (classification of expenditures programs code 3603030), are, respectively, 390 554.1 thousand UAH under the budget program 3603020 and 337 733.2 thousand UAH under the budget program 3603030 (728 287.3 thousand UAH for the two programs in total), which constitutes 0,072% of the total expenditures of the State Budget of Ukraine for 2019 year (1 005 757 991.3 thousand UAH) and 0.0181% of the projected nominal GDP of Ukraine for 2019 (4 014 700 000 thousand UAH).
447. In addition, according to the Draft Law on the State Budget of Ukraine for 2020, the expenses for the program for providing the formation and operation of the FLA system (classification of expenditures programs code 3603020) are planned in the amount of 441 730.1 thousand UAH, the costs for the services and reimbursement of FSLA advocates fees (classification of expenditures programs code 3603030) is planned in the amount of 385 184.0 thousand UAH, with the total amount of expenditures under two programs amounting to 826 914.1 thousand UAH, which will make 0,079% of the planned total expenditures of the State budget of Ukraine for 2020 (1 044 356 065,1 thousand UAH) and 0,016% of the projected nominal GDP of Ukraine for 2020 (4,551,700,000 thousand UAH).
448. State budget for the FLA system in proportion to GDP:
- 2015 - 0.012%;
 - 2016 - 0.12%;
 - 2017 - 0.014%
 - 2018 - 0.019%.
449. Budget program 3603020:
- 2015 - UAH 164 207.3 thousand;
 - 2016 - UAH 181 712.7 thousand;
 - 2017 - UAH 279 548,9 thousand;
 - 2018 - UAH 404 001,5 thousand;
 - 2019 (according to the passport of the budget program) - UAH 394 654,1 thousand.
450. Budget program 3603030:
- 2015 - UAH 80 218.3 thousand;
 - 2016 - UAH 104 433,1 thousand;
 - 2017 - UAH 151 477.9 thousand;
 - 2018 - UAH 292 217,6 thousand;
 - 2019 (according to the passport of the budget program) - UAH 337 733,2 thousand.



451. Considering the previously mentioned information, and the fact that CEPEJ average standard for financing of FLA system from the state budget in proportion to GDP is 2.19 EUR in 2016, it can be concluded that the relevant JSRSAP outcome will not be reached.
452. Considering the previously mentioned information, it can be concluded the level of attainment of this outcome could be scored as amounting to 60% of the target.

Outcome – Sufficient and protected budgetary lines and allocations for the legal aid system

453. Pursuant to paragraph 1 of Article 55 of the Budget Code of Ukraine, protected budget expenditures are recognized as expenditures of the general fund of the budget, the amount of which cannot be changed when reducing approved budgetary allocations. It should also be noted that the second part of the Article 55 of the Budget Code of Ukraine defines a list of protected budget expenditures, including the remuneration of employees at budgetary institutions. Thus, the costs of the FLA system are protected in terms of remuneration of the employees of the CCLAP and FSLA centres.
454. Payment of services and reimbursement of FSLA advocates is not protected budgetary expenditures. Based on the information provided by the MoJ and CCLAP, there are no immediate plans and possibility to change something in this area.
455. Considering the previously mentioned issues regarding the low fees for the FSLA advocates, as well as the very low salaries of the FSLA local centres and Legal aid bureaux a conclusion can be made that the budget allocations for the FLA system is not sufficient. At least not sufficient enough to constantly and efficiently ensure effective (on a good quality level) FPLA and FSLA services to the client.
456. Based on the findings, conclusions and recommendations that have been elaborated in this Report, it could be suggested the level of attainment of this outcome could be scored as amounting to 60% of the target.

Outcome – Increase in financing of primary and secondary legal aid from CSOs, development partners and donors, private sources, and corporate

457. According to the information provided by the CCLAP, international technical assistance was provided under the following programs / projects:
- Supporting Transparent Land Governance in Ukraine Program;
 - Quality and Accessible Legal Aid in Ukraine Project;
 - Continued Support to the Criminal Justice Reform in Ukraine;
 - Strengthening the profession of lawyer in line with European standards;
 - Rule of Law and Community Justice for Conflict-Affected Areas in Ukraine;
 - Consolidating Ukraine's Justice Sector Reform;
 - Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine.
458. In the period from 2015 to 2017 the actual amount of funding under the programs amounted to UAH 26,827.9 thousand.
459. It should be pointed out, that no information could be provided about financing of the provision of FPLA and FSLA from other sources.



460. Based on information received from IRF and QALA Project, UNBA, and NGOs, it can be concluded that, in general, the MoJ and the CCLAP regularly received financial assistance from donors.
461. Considering the previously mentioned information, it can be concluded that at least partly the relevant JSRSAP outcome has been reached.
462. Accordingly, the level of attainment of this outcome could be scored as amounting to 70% of the indicated target.

Outcome – Sound financial control over legal aid expenditures

463. The system of public financial control of budgetary institutions in Ukraine includes, in particular, the Accounting Chamber and the State Audit Service.
464. The Accounting Chamber, on behalf of the Verkhovna Rada of Ukraine, controls the flow of funds to the State Budget of Ukraine and their use, applying the basic principles of activity of the International Organization of Supreme Audit Institutions (INTOSAI), European Organization of Supreme Audit Institutions (EUROSAI) and International Standards of Supreme Audit Institutions (ISSAI) insofar as they are not contrary to the Constitution and laws of Ukraine.
465. The State External Financial Control (audit) is provided by the Accounting Chamber through financial audit, performance audit, examination, analysis and other control measures, whereby the Accounting Chamber is independent of any illegal influence, pressure or interference in the exercise of its powers. Unlawful interference with the Accounting Chamber's exercise of the powers conferred by law is prohibited and entails the consequences established by law.
466. In addition, the central body of executive branch, whose activity is directed and coordinated by the CMU - State Audit Service of Ukraine, ensures the formation and implementation of state policy in the sphere of public financial control.
467. In accordance with the Regulation on the State Audit Service of Ukraine, approved by the Decree of the CMU of February 3, 2016 №43, the said authority exercises financial control, in particular, in executive bodies, state funds, budgetary institutions, entities of the public sector of economy, as well as at enterprises, institutions and organizations that receive (received in the audited period) funds from the budgets of all levels, state funds.
468. It should also be noted that in accordance with the Regulation on the MoF, approved by the CMU Decree No. 375 of August 20, 2014, the MoF, within the powers provided for by law, together with the relevant central executive authorities, controls the purposeful use of state funds provided for the implementation of projects, implementation of programs, including international ones.
469. In addition, financial control in the area of FLA is exercised by the Internal Audit Office of the CCLAP. Thus, the Strategic Plan of Internal Audit Activities for 2019-2021, approved by the Decree of the CCLAP of March 27, 2019, provides, in particular, for carrying out internal audits on the effectiveness of the internal control system, the degree of fulfilment and achievement of the goals set in the strategic and annual plans, the effectiveness of planning and implementation of budget programs and the results of their implementation, the quality of administrative services and the performance of



control and monitoring functions, tasks defined by the legislation, as well as risks that adversely affect the functions and tasks of the entities under review.

470. The planning, implementation and implementation of the audit results of the financial activities of the centres shall be in accordance with the Internal Audit Procedures in the system of the MoJ, which are approved by the MoJ's Decree No. 3622/5 dated December 12, 2016, MoJ's Decree No. 1421/5 dated April 26, 2017, as well as MoJ's Decree No. 404/5 in 2018.
471. In accordance with budget programs, the CCLAP is the responsible contractor and reports annually on their implementation, reporting on the CCLAP's official website.
472. Considering the previously mentioned information, it can be concluded that the level of attainment of this outcome could be scored as amounting to 100% of the target.



CONCLUSIONS

Outline overall views as to the level of attainment of outcomes envisaged by JSRSAP and recap recommendations

- There has been considerable progress in terms of attainment of outcomes envisaged by JSRSAP for the intervention areas 6.4. and 6.5., which are tackled by the overall substantial reform in the area of FLA. According to the expert estimates its level amounted to median 78 % accordingly.¹³
- For ensuring enhancement of the reforms and their advancement in the area of FLA in Ukraine, in particular, improving relevant framework and its steering mechanisms, the mid-term evaluation can suggest the following:

SHORT-TERM RECOMMENDATIONS (within the period up to the end of 2020)

- There is a need for CCLAP to carry out a comprehensive, coordinated, structured, national wide legal needs assessment, to ensure effective developments of the FLA system.
- It would be advisable for CCLAP to monitor the progress of its own legislative initiatives in the MoJ and CMU, to ensure ownership over the legislative initiatives, as well as to ensure a more efficient and effective legislative procedure.
- Need to review the possibility to regulate the whole FLA provider assignment process in the Law on FLA, because process itself is focused and directly impacts the FLA beneficiary. From a legislative standpoint it is not advisable to regulate with inner procedures processes aimed at society, because it should be clearly regulated, transparent, effective, fair and understandable by the FLA beneficiary.
- Need to review the criteria for appointment of advocates (Article 21 paragraph 2 of the Law on FLA) and possibly include additional criteria, like interest of conflict (which is very relevant for rural areas), distance between FSLA beneficiary and FSLA advocates, etc.
- It should also be evaluated if the regulations of the Law of FLA could be revised and in some instances the person's right to choose its own advocate could be respected – for example, when the FSLA beneficiary in civil and administrative cases has already worked with an advocate, who is a FSLA provider.
- It would be advisable for the CCLAP not to strive to ensure equal distribution of cases among advocates, but rather monitor and intervene when it is evident that the system is being misused.
- The deadlines for the provision of FPLA in written (Article 10 paragraph 4 and 5 of the Law on FLA) should be shortened, so that based on the regulations of the Law on FLA a person could receive FPLA in written in a shorter deadline than FSLA. That would also be in line with the main aim of FPLA – early intervention (fast access to legal information, advice etc.).
- To avoid different quality FPLA services, there is need to review the possibility to develop unified minimum quality standards for FPLA, that would apply to all FPLA providers.

¹³ Outcomes, their group-specific scoring details are suggested in the preceding section of the Report and indicated in the left column of the attached evaluation Matrix. See Annex 1.



- ⇒ Review the possibility in the future to address the capacity strengthening system for the CCLAP staff more comprehensively (soft and hard skills) and strategically. Therefore, in context of the JSRSAP under action 6.5.1. “Development of training system and expanded delivery of training” outcomes should be introduced, which are also directed towards trainings, increasing of capacity, effectiveness and efficiency of FLA service providers (not only FSLA advocates) and managers.
- ⇒ Considering that “peer review” has been chosen as the most efficient and effective tool for measuring the quality of the provided FLA by advocates, it would be advisable to plan addition measures/steps to ensure that the Expert Legal Analysis Commission in practice can work and demonstrate first results. Because the main hurdle currently is the lack of cooperation with UNBA, the signed MoU should be revisited, and a solution should be found as fast as possible.
- ⇒ As the CCLAP and UNBA both are the backbone of the FLA system, it very important to strengthen their cooperation and communication also in the future, with the aim to reduce divergent approaches, when it comes to the development of the FLA system.
- ⇒ Taking into account that based on NPM report most of the people in various types of places of detention were not properly informed about their rights and obligations and were not able to obtain legal assistance from the FLA system, it would be advisable to strengthen the work of the FLA system in the direction of educational activities/ legal empowerment for persons in places of detention.
- ⇒ It would be strongly advisable for CCLAP to ensure a more active participation of its regional centre staff in the NPM monitoring missions.
- ⇒ MoJ and CCLAP need to maintain permanent communications channels with the Ombudsman’s office for the purposes of implementing the MoU previously concluded, and if necessary, to set up working groups on common issues concerning FLA system (including, development of unified quality standards for the provision of FPLA, developments of practical guidelines etc.).

TECHNICAL SHORT-TERM RECOMMENDATIONS IN CONTEXT OF JSRSAP

- ⇒ For the purposes of JSRSAP there is a need to define what “full-fledged free legal aid system” means, because otherwise it not passible for the responsible authority to reach the JSRSAP outcomes and outputs, that contain such wording.
- ⇒ The wording of output 7 under JSRSAP action 6.4.1. should be adjusted to “Reviewed regulatory framework on possible introduction of a mechanism to cover expertise and expert testimony expenses in legal aid cases”, so that the output corresponds to the relevant outcome “Potential expansion of legal aid to cover expertise and expert testimony”.
- ⇒ To define the 4th step in the monitoring tool for this measure/output as follows: “Implementations of the signed MoU between CCLAP and the Ombudsman”.
- ⇒ To clarify the English wording of the measure/output 5 “Memorandum of Understanding concluded between CCLAP and local self-governance authorities, CSOs, HEIs, to facilitate various initiatives regarding the provision of primary legal aid”.
- ⇒ To clarify the wording of the measure/output 6 under the JSRSAP actions 6.4.1. as follows “Memorandum of Understanding concluded between NBC/ RBCs and local self-governance authorities, to facilitate the provision of primary legal aid”.



- To clarify the wording of the measure/output 4 under the JSRSAP actions 6.4.2. as follows “Communication and awareness building strategy developed and implemented, to support operation of the free legal aid system”.
- For the purposes of JSRSAP, it would be advisable to reformulate the outcome “Advanced curricula and quality materials for training legal aid lawyers” under JSRSAP action 6.5.1. and move it to the outputs, because already in the current wording it sounds more like an output. When the output is formulated it should be addressed not only to FSLA advocates, but also relevant FSLA centre staff.
- To clarify the wording of the measure/output 1 under the JSRSAP actions 6.5.2. as follows “Quality standards for the provision of secondary legal aid in civil and administrative matters developed and applied, to ensure greater quality of legal aid provision by advocates”.
- To clarify the wording of output 1 under the JSRSAP activity 6.5.3 and use the correct title of the CCLAP information system – CCLAP integrated information/analytical system (IIAS).

LONGER-TERM RECOMMENDATIONS (within the next full-fledged policy cycle)

- It would be advisable for the MoJ and the CCLAP to consider amending the Law on FLA and to outline concretely types of documents that confirm a person’s affiliation with vulnerable groups, as well as to review the procedures for obtaining FSLA and the deadlines for granting or refusing to grant FSLA.
- Review the possibility in the Law on FLA to clearly separate the criteria for means test from criteria for merits test, as well as review the possibility to introduce new standards/criteria for the merits test. Especially because currently the variation of merits test, that is introduced in the FLA system, does not allow CCLAP to fully act as filter, that ensures that FSLA is not provided in cases where it shouldn’t be provided (for example, when the matter is manifestly unfounded, the value of the case is disproportionately low compared to FSLA expenditure etc.)
- To further strengthen the CCLAP’s independence, it is important to maintain the potential to develop the policy proposals that the CCLAP has demonstrated so far. In doing so, it seems appropriate to delineate more clearly the powers of the CCLAP, its Supervisory Board and the MoJ in context of development of FLA policies.
- To review the legality and justification of the restriction to receive FSLA no more than six times during the fiscal year. Of course, it needs to be evaluated in context of the recommendation regarding the development of a clear and detailed merits test. If the policy maker has decided to limit the access to FSLA, then it is strongly advisable to do that based on merit and not on a numerical limitation.
- There is a need to evaluate the potential expansion of FLA to cover not only expertise and expert testimony, but also court taxes and court fees.
- Review the already existing concept of the independent FPLA provider and plan the necessary steps to implement such a concept in practice, or to the contrary evaluate the possibility to introduce within the FLA system certain types of external stakeholders of the FLA system.



- ⇒ Taking into account that based on NPM report most of the people in various types of places of detention were not properly informed about their rights and obligations and were not able to obtain legal assistance from the FLA system, it would be advisable to strengthen the work of the FLA system in the direction of educational activities/ legal empowerment for persons in places of detention.
- ⇒ The reimbursement mechanism, as well as the fees for the provision of FSLA, should not demotivate FSLA advocates to provide adequate services. Therefore, it would be recommended to review the already existing reimbursement mechanism and the foreseen fees for the provision of FSLA. Possibly evaluate the possibility to go to a lump-sum reimbursement mechanism.



ANNEX I:

ASSESSMENT-SPECIFIC MATRIX

Area of Intervention 6.4 Increased Efficiency and Effectiveness of the Legal Aid System and Improved Management

Outcomes to be addressed ¹⁴	Desk research ¹⁵	Third-party reports	Panel discussions ¹⁶	Interviews ¹⁷	Surveys ^{18,19}	Data analysis	Other methods	Comments	Level of Implementation ²⁰
I. Policy development/legislative process <ul style="list-style-type: none"> – Coordination Centre for Legal Aid Provision (CCLAP) provides regular and constructive inputs for major policy and regulatory initiatives related to justice sector reform – Maximum use of statistics and evidence-based approach in all legal aid policy and regulatory initiatives 	1	1		1; 3		3			93%
II. Scope of the legal aid system <ul style="list-style-type: none"> – Expanded accessibility and scope of legal aid – Potential expansion of legal aid to cover expertise and expert testimony (– Possibility of coverage for expertise and expert testimony in legal aid cases) – Access to secondary legal aid in civil and administrative cases – Possibility of legal aid for victims and (special) witnesses in criminal process – Clear and definite grounds for obtaining legal aid in all types of cases – Increased proportion of primary legal aid 	1	1		1; 3					65%

¹⁴ Outcomes envisaged in the relevant box of the JSRSAP to be tackled are specified. Where necessary, basic parameters outlined. Outcomes have been grouped, taking into account actions for particular outputs envisaged in JSRSAP's and methods to be applied for evaluation of certain group of outputs.

¹⁵ For every method (desk research, third-party reports, panel discussions, etc.), where it is used, relevant responsible experts identified: ISTE I = 1; ISTE II = 2, NSTE = 3 (see the relevant ToR). In some activities all experts have been identified as relevant to be involved (for example, in some panel discussions, etc.). Therefore, in some activities all three experts are put as "1-3".

¹⁶ Could be advanced to focus groups, where necessary. To be specified. RJRCs to be specifically indicated.

¹⁷ Respondents to be specified in a footnote.

¹⁸ Categories (service users, general public) to be specified.

¹⁹ In some areas consolidates surveys will be used (for several topics, if the target group is the same).

²⁰ Experts estimate level of attainment of the outcome (based on the assessment/evaluation results) in %.

Outcomes to be addressed ¹⁴	Desk research ¹⁵	Third-party reports	Panel discussions ¹⁶	Interviews ¹⁷	Surveys ^{18,19}	Data analysis	Other methods	Comments	Level of implementation ²⁰
III. Management of the legal aid system <ul style="list-style-type: none"> – Increased capacity for management, oversight and decentralized service delivery of the legal aid services by CCLAP, legal aid centers, contracted lawyers, and other key delivery partners – Facilitated interactions among all actors in primary legal aid system – Increased role of local self-governance bodies, CSOs, and HEIs in providing primary legal aid – Piloting of initiatives foreseen by MOU between CCLAP and UNBA – Increased role of Ombudsman in legal aid system by investigating certain cases (for instance, where judicial remedies were unused or unavailable), as well as developing practice guides and other readily-made materials to be used as legal aid resources – Improved access to counsel and right to representation for specified categories of citizens, including convicts – Strengthened capacity of regional SCLAPs and establishment of the optimal number of local (inter-district) SCLAPs – Rollout of full-fledged free legal aid system in place in selected regions (– Integrated full-fledged free legal aid system rolled out and in place in selected regions) 	1	1	1; 3	1; 3		3			75%
IV. Legal aid providers <ul style="list-style-type: none"> – Increased effectiveness and efficiency of legal aid service providers and managers to respond to the needs of citizens – Improved access to secondary legal aid through streamlined lawyer assignment process – Enhanced coverage of legal aid providers throughout Ukraine 									70%
V. Communication <ul style="list-style-type: none"> – Communication channels between CCLAP and UNBA, legal aid system bodies, and other State and non-State bodies advanced and used regularly – Expanded public awareness of legal aid system and possibilities for obtaining representation 	1			1; 3					90%

Area of Intervention 6.5 Quality Enhancement and Quality Control for Provision of Legal Aid

Outcomes to be addressed	Desk re- search	Third-party reports	Panel discussions	Interviews	Surveys	Data analysis	Other methods	Comments
VI. Training system for the legal aid services providers <ul style="list-style-type: none"> – Involvement CCLAP to the professional development of lawyers providing secondary legal aid – Facilitated interaction between CCLAP and Bar Training Centre – Advanced curricula and Quality materials for training legal aid lawyers – Training system for legal aid lawyers strengthened and expanded 	1	1	1; 3					90%
VII. Quality assurance for legal aid services <ul style="list-style-type: none"> – Improving quality standards for providing legal aid and compliance – Judges oversee minimum quality standards for legal aid representation in criminal cases – Harmonized reporting system by advocates to Legal Aid Centres – Client satisfaction surveys appropriately used to measure quality of legal aid services – Increased role of National Preventing Mechanism under Ombudsman for quality monitoring matters – Legal-aid advocates provide greater quality of services 	1	1	1; 3			3		66%
VIII. Development of IT tools for the legal aid system <ul style="list-style-type: none"> – Full electronic legal aid case management – Completion of Complex Information Analytical System for legal aid provision, its link to e-justice – ‘One-stop-shop’ website, providing greater interconnectivity of electronic information sources regarding primary and secondary legal aid and other e-justice services – Automated or on-line systems for measuring user satisfaction 	1	1		1; 3		3		70%
IX. Financing of the legal aid system <ul style="list-style-type: none"> – Financing of legal aid system from State budget (in proportion to GDP) at not less than CEPEJ average standard – Sufficient and protected budgetary lines and allocations for the legal aid system – Increase in financing of primary and secondary legal aid from CSOs, development partners and donors, private sources, and corporate Sources – Sound financial control over legal aid expenditures 	1	1		1; 3		3		73%



ANNEX II:
EXTRACT FROM JSRSAP

Chapter 6 Strengthening Bar and Legal Aid							
<i>Action</i>		<i>Implementation Deadline</i>			<i>Performance Criteria</i>		
		<i>End of 2016</i>	<i>End of 2018</i>	<i>End of 2020</i>	<i>Measures/Outputs</i>	<i>Responsible Body / Means</i>	<i>Outcomes</i>
Area of Intervention 6.4 Increased Efficiency and Effectiveness of the Legal Aid System and Improved Management							
6.4.1	Improved legal and regulatory framework for legal aid system, and improved implementation				1. Reviewed regulatory framework of the legal aid system, in accordance with recent changes to the Law on Legal Aid, which came into force on 25 October 2014	Government of Ukraine, MOJ, CCLAP, NBC / Decisions	<ul style="list-style-type: none"> – Improving quality standards for providing legal aid and compliance; – Increased effectiveness and efficiency of legal aid service providers and managers to respond to the needs of citizens – Increased capacity for management, oversight and decentralized service delivery of the legal aid services by CCLAP, legal aid centres, contracted lawyers, and other key delivery partners – Facilitated interactions among all actors in primary legal aid system – Increased role of local self-governance bodies, CSOs, and HEIs in providing primary legal aid – CCLAP provides regular and constructive inputs for major policy and regulatory initiatives related to justice sector reform – Maximum use of statistics and evidence-based approach in all legal aid policy and regulatory initiatives – Communication channels between CCLAP and UNBA, legal aid system bodies, and other State and non-State bodies advanced and used regularly; – Piloting of initiatives foreseen by MOU between CCLAP and UNBA – Increased role of Ombudsman in legal aid system by investigating certain cases (for instance, where judicial remedies were unused or unavailable), as well as developing practice guides and other readily-made materials to be used as legal aid resources – Rollout of full-fledged free legal aid system in place in selected regions – Potential expansion of legal aid to cover expertise and expert testimony
					2. Piloting of initiatives enhancing access to justice included in the MOU between CCLAP and Ombudsman	MOJ, CCLAP, Ombudsman / Decisions, reports	
					3. Roll-out of full-pledged legal aid system, starting in selected regions	MOJ, CCLAP, self-governance authorities, Ombudsman, RBCs, CSOs, HEIs / Decisions, MOUs, statutes and rules amended, reports	
					4. Professional development of staff of CCLAP and Centres for Provision of Secondary Legal Aid	MOJ, MOF, CCLAP, CSLAPs / Trainings, curricula, practice guides	
					5. Agreements for cooperative relationships between CCLAP and associations of local self-governance authorities, CSOs, HEIs, for initiatives to facilitate the provision of primary legal aid	CCLAP, CSOs, HEIs / Decisions	
					6. Agreements for cooperative relationships between NBC/ RBCs and local self-governance authorities, to facilitate the provision of primary legal aid	NBC, RBCs, CSOs, HEIs / MOUs, decisions, reports	
					7. Reviewed regulatory framework on introduction of expertise and expert testimony directly by the defence	GOU, MOJ, CCLAP, UNBA, MOF, Parliament / Decisions, statutes and rules amended	

6.4.2	Expansion and support for operations and activities of network of Secondary Legal Aid Centres and institutions providing primary legal aid, and improved regional coverage			1. Expanded network of Secondary Legal Aid Centres fully operational, and providing full-scale secondary legal aid to eligible categories of citizens	CCLAP, MOJ, MOF, Parliament / Decisions, contracts, job descriptions, practice guides, ICT network in place, trainings	<ul style="list-style-type: none"> - Enhanced coverage of legal aid providers throughout Ukraine - Strengthened capacity of regional SCLAPs and establishment of the optimal number of local (inter-district) SCLAPs - Integrated full-fledged free legal aid system rolled out and in place in selected regions - Improved access to secondary legal aid through streamlined lawyer assignment process - Increased proportion of primary legal aid - Expanded public awareness of legal aid system and possibilities for obtaining representation
				2. Institutions for providing primary legal aid are widely established, fully operational, and providing all required services according to regular needs analysis	Local self-governance authorities, NBC/RBCs, CSOs, HEIs CCLAP / Decisions, MOUs, statutes and rules amended, reports	
				3. Legal Aid Call Centre to receive and process reports on detention and streamlined advocate assignment process fully operational	CCLAP, MOJ, MOF / Decisions, job descriptions, placement plans, reports	
				4. Developed and implemented public outreach and advocate engagement strategies at national and regional/local levels, to support operation of the secondary legal aid system	CCLAP, MOJ, GOU, CSOs / Decisions	
6.4.3	Expansion of coverage of legal aid system			1. Expansion of legal aid system to ensure representation of citizens in court in criminal cases, including convicts	GoU, MOJ, MOF, Parliament / Decisions	<ul style="list-style-type: none"> - Improved access to counsel and right to representation for specified categories of citizens, including convicts - Access to secondary legal aid in civil and administrative cases - Possibility of legal aid for victims and (special) witnesses in criminal process - Possibility of coverage for expertise and expert testimony in legal aid cases - Clear and definite grounds for obtaining legal aid in all types of cases - Expanded accessibility and scope of legal aid,
				2. Reviewed regulatory framework on expansion of the legal aid system to cover civil and administrative cases, and convicts	MOJ, MOF, Parliament / Decisions	
Area of Intervention 6.5 Quality Enhancement and Quality Control for Provision of Legal Aid						
6.5.1	Development of training system and expanded delivery of training			1. Training (raising professional qualifications) for lawyers providing secondary legal aid, based on regularly performed needs assessments	CCLAP, MOJ, CSOs / Decisions, trainings	<ul style="list-style-type: none"> - Training system for legal aid lawyers strengthened and expanded - Advanced curricula and Quality materials for training legal aid lawyers - Involvement CCLAP to the professional development of lawyers providing secondary legal aid. - Facilitated interaction between CCLAP and Bar Training Centre
				2. Practice guides and training modules related to criminal, civil, and administrative matters developed, disseminated and updated, and used regularly	CCLAP, MOJ, BTC, CSOs / Decisions, trainings, publications	
6.5.2	Strengthened quality control and assurance system for secondary legal aid			1. Quality standards for the provision of secondary legal aid in different matters developed and applied, to ensure greater quality of legal aid provision by advocates	MOJ, CCLAP, NBC / Decisions	<ul style="list-style-type: none"> - Legal-aid advocates provide greater quality of services - Judges oversee minimum quality standards for legal aid representation in criminal cases - Harmonised reporting system by advocates to Legal Aid Centres - Client satisfaction surveys appropriately used to measure quality of legal aid services - Increased role of National Preventing Mechanism under Ombudsman for quality monitoring matters
				2. Effective procedures in place to monitor Quality Standards for the provision of secondary legal aid	MOJ, CCLAP, Ombudsman, NBC, CJ / Decisions, MOUs	



6.5.3	Development of information systems for greater delivery of e-justice services ⁸			1. CCLAP management information system (MIS), including electronic case management system, fully operational. Electronic case-management systems, secondary legal aid provider registries and internal communication channels between CCLAP, all secondary legal aid centres, NBC, and advocates in place and used effectively	CCLAP, MOJ, / Decisions, MOUs, feasibility study, Implementation Master Plan, practice guides, hardware and software in place, review reports, trainings	<ul style="list-style-type: none"> - Full electronic legal aid case management - 'One-stop-shop' website, providing greater interconnectivity of electronic information sources regarding primary and secondary legal aid and other e-justice services - Automated or on-line systems for measuring user satisfaction - Completion of Complex Information Analytical System for legal aid provision, its link to e-justice
6.5.4	Increased and sustainable financing, and sound financial control of legal aid system			1. Increase in financing of legal aid system from State budget, with adequate controls	MOJ, GOU, Parliament / Decisions, statutes and rules amended	<ul style="list-style-type: none"> - Financing of legal aid system from State budget (in proportion to GDP) at not less than CEPEJ average standard - Sufficient and protected budgetary lines and allocations for the legal aid system
				2. Increase in financing of legal aid system from non-State sources, with adequate controls	MOJ, NBC / Awareness campaigns, donor projects	<ul style="list-style-type: none"> - Increase in financing of primary and secondary legal aid from CSOs, development partners and donors, private sources, and corporate sources - Sound financial control over legal aid expenditures

Evaluation Report

on

Area of Intervention 11.4: Improved Rehabilitation and Prevention of Crime Through Setting up of Fully-Fledged Probation Service and Application of Alternative Sanctions

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