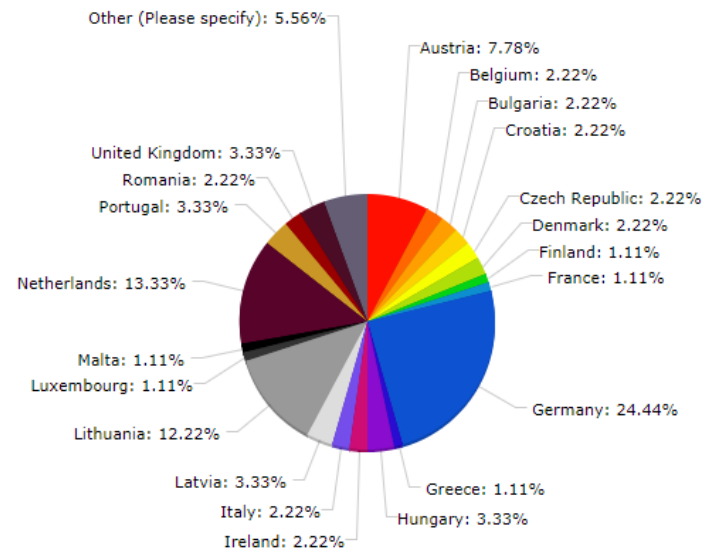


1. Which country are you working in? \*



Anzahl Teilnehmer: 90

- 7 (7.8%): Austria
- 2 (2.2%): Belgium
- 2 (2.2%): Bulgaria
- 2 (2.2%): Croatia
- 2 (2.2%): Czech Republic
- 2 (2.2%): Denmark
- 1 (1.1%): Finland
- 1 (1.1%): France
- 22 (24.4%): Germany
- 1 (1.1%): Greece
- 3 (3.3%): Hungary
- 2 (2.2%): Ireland
- 2 (2.2%): Italy
- 3 (3.3%): Latvia
- 11 (12.2%): Lithuania
- 1 (1.1%): Luxembourg
- 1 (1.1%): Malta
- 12 (13.3%): Netherlands
- 3 (3.3%): Portugal
- 2 (2.2%): Romania
- 3 (3.3%): United Kingdom
- 5 (5.6%): Other (Please specify)



2. Other country:



Anzahl Teilnehmer: 7

- none
- Norway
- palestine
- Poland
- Ukraine
- belarus
- israel

3. Please indicate your profession. \*



Anzahl Teilnehmer: 90

4 (4.4%): State legal aid board or equivalent

1 (1.1%): Judge (pre-trial, trial or appellate)

4 (4.4%): Prosecutor

44 (48.9%): Lawyer (private practice)

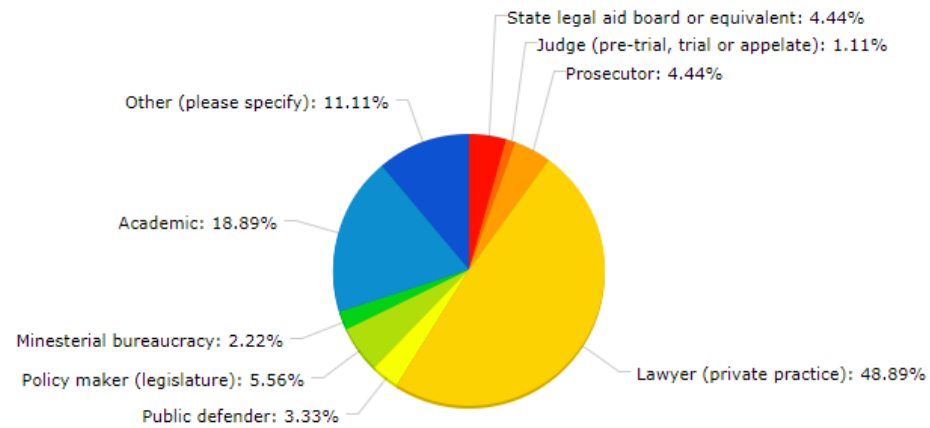
3 (3.3%): Public defender

5 (5.6%): Policy maker (legislature)

2 (2.2%): Ministerial bureaucracy

17 (18.9%): Academic

10 (11.1%): Other (please specify)



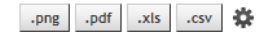
4. Other profession:



Anzahl Teilnehmer: 17

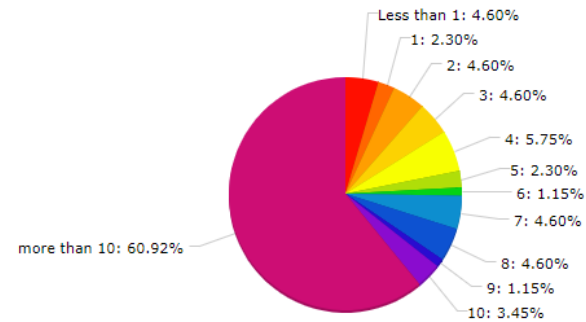
- defender, counselor
- Academic within the ministerial bureaucracy
- Law enforcement / Police
- academic . Ass. prof
- Consultant Judicial reform
- Researcher with a non-for-profit organization
- Police officer
- academic
- private legal aid office
- Vice President of the Ukrainian National Bar Association
- court staff trainer
- Legal Consultant
- Victim supporter
- 1
- official justiça
- Medical
- UN consultant

5. For how many years have you been working in the area of legal aid?



Anzahl Teilnehmer: 87

- 4 (4.6%): Less than 1
- 2 (2.3%): 1
- 4 (4.6%): 2
- 4 (4.6%): 3
- 5 (5.7%): 4
- 2 (2.3%): 5
- 1 (1.1%): 6
- 4 (4.6%): 7
- 4 (4.6%): 8
- 1 (1.1%): 9
- 3 (3.4%): 10
- 53 (60.9%): more than 10



6. What is your very (!) general assessment of legal aid in criminal matters (or a functional equivalent) in your jurisdiction?  
Please rate your assessment on a scale from 1 to 5 (1-very bad, 5-very good)

[.png](#) [.pdf](#) [.xls](#) [.csv](#)



Anzahl Teilnehmer: 85

	1 (very bad) (1)		2 (bad) (2)		3 (sufficient) (3)		4 (good) (4)		5 (very good) (5)		Arithmetisches Mittel ( $\bar{x}$ )	Standardabweichung ( $\pm$ )
	$\Sigma$	%	$\Sigma$	%	$\Sigma$	%	$\Sigma$	%	$\Sigma$	%		
Your assessment	3x	3,53	16x	18,82	24x	28,24	35x	41,18	7x	8,24	3,32	0,99



## Best Practice Standards of Legal Aid in Criminal Proceedings

### Introduction

Dear participant,

We will first give you some background information on the project that this survey is based upon including the necessary framework (p. 2) and this survey's methodology (p. 3). Then, we will give you an overview of the categories we will ask questions about and of the structure of the survey (p. 4) and afterwards start with the survey.

We kindly ask you to participate by answering the following questions as we depend on your expertise as practitioner or expert in the field of legal aid. Of course, the survey is anonymous and any kind of data is under private data protection.

If you have any questions, comments or critique, please feel free to contact us at [zink@jur.uni-frankfurt.de](mailto:zink@jur.uni-frankfurt.de).

### Background of the Project and Framework

This survey is part of the project "Enhancing the Quality of Legal Aid - General Standards for Different Countries", which is financed by the European Commission. The aim of the project is to identify best practice standards of legal aid in criminal proceedings. For further information please see <http://qualaid.vgtpt.lt/en/about-project/what-qual-aid>

Your answers will help us to prepare, improve and verify the Best Practice Standards of Legal Aid in Criminal Proceedings. The more inputs from different jurisdictions we receive, the higher quality document will be available for the use of all EU countries.

#### General Information

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

2. At present, the right to free legal aid, in cases where a person does not have sufficient means to pay for it and where the interests of justice require it, is well anchored in international law. Recent international documents, however, go one step further, not only requiring availability of free legal aid, but also highlighting importance of its quality, as well as the need for trainings and education in this area.

3. This international framework is further strengthened in Europe. Here, the Council of Europe and the EU are the two main organizations setting the standards for legal aid. As for the Council of Europe, its European Convention of Human Rights, and in particular the case law of the European Court of Human Rights, consider that mere appointment of a lawyer is not enough to fulfil the State's obligation to provide effective legal assistance – some quality of this assistance is also required. The EU goes even further developing and implementing certain common standards of legal aid across Europe.

#### Relationship to Directive 2016/1919

The new directive 2016/1919 on legal aid should be seen as the most important document in this regard.

(1) The Practice Standards and Terms of Reference in criminal proceedings which we prepare echo Directive (EU) 2016/1919 (hereafter: Legal Aid Directive); please especially see Recitals 24 to 27 and Articles 7 and 8 concerning the quality of legal aid.

(2) The Practice Standards are addressed to legal aid providers (defense lawyers etc.). They lay down principles and procedures to assist legal aid providers in their providing legal aid of adequate quality (Article 7(1)(a) Legal Aid Directive), especially legal aid that is adequate to safeguard the fairness of the proceedings (Article 7(1)(b) Legal Aid Directive).

(3) The Terms of Reference are addressed to control institutions, which shall inter alia enjoy the power to assess and review legal aid providers. The Terms of Reference lay down principles, namely about competences, institutional design, procedures, and substantive standards, which assist control institutions in assessing and reviewing whether legal aid providers comply with the Practice Standards.

(4) Since the provision of adequate legal aid is inter alia to ensure the fairness of the proceedings, both the Practice Standards and the Terms of Reference must heed the Charter of Fundamental Rights (CFR) and, by extension (Article 52 CFR), Article 6 ECHR, especially the overarching right to a fair trial (Article 6 § 1 ECHR) as well as the particular right to defend oneself in person or through legal assistance (Article 6 § 3 (c) ECHR), in the interpretation of their respective meanings by the ECtHR.

(5) Both the Practice Standards and the Terms of Reference must pay due respect to the independence of the legal profession (Article 7 (1) (b) Legal Aid Directive), the judicial independence and differences in the organisation of the judiciary across the Member States (Recital 26 Legal Aid Directive), and to the national identities of the Member States, inherent in their fundamental political and constitutional structures (Article 4(2) Treaty of the European Union).

(6) The majority of people in need of legal aid granted by a means-test are people who belong to vulnerable groups. Many of them are from socially and economically disadvantaged backgrounds and have not only a lack of basic legal knowledge, but also often a lack of social skills. This understanding should be the starting point of lawyers providing legal aid.

(7) Legal aid to victims of crime and children have their specific issues. Certain guidelines of this document might not apply in those cases.

### Methodology

The European Union – united in diversity; best practice standards and terms of reference always depend on the national system of criminal procedure in an inseparable way. In the course of the project it has manifested that even the three countries participating in the project have very different approaches to Legal Aid. In order to meet those needs we suggest to proceed according to the principle of a "tool box". In the following, we try to provide different tools identified as best practices - or at least indicating a good practice - in Lithuania, Germany and the Netherlands.

Of course it should not be the purpose to only implement one tool of the following "tool box", but to implement as many as possible taking into account the shape of the system. By implication a high number of the following tools can be an indicator for a system of high quality, although this does not automatically grant high quality. It is also important to ensure that the tools work in an appropriate way and that it is not only a "law of the books", but also working out in practice. Therefore we provide examples from the countries of the project partners and we also plan to give trainings on this basis in the course of the project.

The tools shall apply to all stakeholders: Lawyers working in the system, the institutions who provide legal aid as well as policy makers as all of them are able to make adjustments in order to guarantee an appropriate quality of legal defence that is financed by the Member States. In this context a distinction can be drawn between tools applying internally between the lawyer and the client and tools that apply externally and therefore constitute the preconditions for state financed criminal defence of a high quality.

## Overview of the Categories and Structure of the Survey

We will first inform you about the category we locate the tool in. Afterwards we will name the tool and briefly describe how it works. If we have identified the tool as a best practice in one of our systems (Germany, Lithuania, Netherlands) or in the system of another country we will give you examples. We chose them fragmentarily, thus this list does not claim to be comprehensive.

Afterwards we will ask you if you have that tool in your system and if not whether you could imagine that the tool would fit in your system. Of course you always have the possibility to comment on our suggestions, please note all associations.

The categories we will deal with are the following:

Education  
Trainings and Qualification  
Evaluation  
Terms of Reference for an Audit of the Quality and Value of the Services provided by Lawyers  
Complaints  
Choice of Lawyer made by the Beneficiary/an Institution  
More Extensive Information of the Beneficiary  
Procedural Safeguards  
Special Needs of fast Provision of Legal Aid in Detention Cases  
Operating Principles  
Payment and Costs

## Basic Information about the Participants

Which country are you working in? \*

Please choose...

Other country:

Please indicate your profession. \*

Please choose...

Other profession:

For how many years have you been working in the area of legal aid?

Please choose...

What is your very (!) general assessment of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate your assessment on a scale from 1 to 5 (1-very bad, 5-very good)

Your assessment

	1 (very bad)	2 (bad)	3 (sufficient)	4 (good)	5 (very good)
	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## Tool Box - Category: Education

Tool:

Establish a system with a high education as an access requirement

Description of the way it works:

As in many states the same lawyers can work as legal aid/ court appointed lawyers and private lawyers, the education must be on a high level in general; this can be ensured by difficult exams, good mentoring programs, theoretical and practical parts in the course of the education etc.

Example of the tool already existing or concrete proposal:

For a comparison of the different educational requirements for working as a legal aid/ court appointed lawyer please see the following statistics:

<http://vgtpt.lrv.lt/nuorodos/naudinga-informacija>

Do you think you already have an adequate education in your system?

yes

no

Please explain why you find the education in your system adequate/not adequate and if not what concrete improvements have to be done in your opinion.

## Tool Box - Category: Trainings and Qualification

### Tool:

Requirement of specialization

### Description of the way it works:

Only lawyers who are certified specialized in criminal proceedings are allowed to work as legal aid lawyers/court appointed lawyers

### Example of the tool already existing or concrete proposal:

NETHERLANDS: Legal aid lawyers who want to do criminal cases have to conduct a preliminary Bar exam. Therefore a lawyer should at least pass the minor in criminal law. In the second year a lawyer needs to choose his or her preferred major. One of the possibilities then is the major criminal law.

To register for legal aid at the Legal Aid Board (LAB) the minor criminal law is sufficient. Additionally the lawyer should have done 5 cases, under supervision of a mentor.

NETHERLANDS: A permanent education system exists, in which lawyers have to earn a certain amount of study/training-points every year in order to keep being trained constantly.

Proposal from GERMANY: Currently there is no requirement for lawyers being specialised in criminal law in order to work as a court appointed counsel; but there is a legislative proposal from academics and criminal defense lawyers suggesting to regulate the requirement of either being specialised in criminal law (Fachanwalt für Strafrecht) or having practiced in criminal law for at least one year in order to guarantee specialist knowledge in criminal cases, see <https://www.hrr-strafrecht.de/hrr/archiv/18-02/index.php?sz=6>

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool:**

Trainings for the lawyers/for stakeholders within their groups or together with other stakeholders

**Description of the way it works:**

Trainings for legal aid lawyers/court appointed lawyers can be offered or made compulsory; if there are problems with communication between different stakeholders, it can be helpful to oblige them to do trainings together with other stakeholders

**Example of the tool already existing or concrete proposal:**

**LITHUANIA:** In Lithuania, each year, lawyers are obliged to collect a defined number of points undergoing seminars, conferences and discussions

**GERMANY:** Hessische Justizakademie in the state of Hesse opened their trainings for judges and prosecutors up for counsels in order to exchange views on different topics (e.g. on the risk of criminal liability in connection with the "Deal" in court, with participation of Prof. Dr. Matthias Jahn)

**NETHERLANDS:** The Role of the dean is to cooperate with all institutions which helps to improve the communication in the whole system and to reveal problems in a cooperative and in the first place informal manner; there is also a close cooperation between prosecutors and police in the ASAP program; lawyers do trainings for policemen in order to create more mutual understanding for the perspective of each other

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool:**

Establish meetings on a structural basis amongst professionals within the field of criminal law

**Description of the way it works:**

The same as above applies to meetings instead of trainings: communication between the stakeholders is important and can improve the system

**Example of the tool already existing or concrete proposal:**

**GERMANY:** An exchange is possible between the academics and practitioners in the legal system concerning different topics in the series of events called "Karlsruher Strafrechtsdialoge" (not especially in the field of legal aid/mandatory defence, but this may also be a possible subject)



Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                  2                  3                  4                  5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Online-Trainings for lawyers

Description of the way it works:

There are some online-training tools that can be used

Example of the tool already existing or concrete proposal:

NETHERLANDS: There is another EU-project from the University of Maastricht called "supralat"; they created a website for trainings for lawyers in pretrial detention situations: Available on the internet at <http://www.salduzlawyer.eu/>

LITHUANIA: In Lithuania, a human rights NGO created an online learning platform "New EU law standards in criminal proceedings" (funded by EU). It widely covers right to effective protection and legal aid. Available on the internet at <http://www.be-ribu.lt/visi-kursai/>

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                  2                  3                  4                  5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes
- no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

### Tool Box - Category: Evaluation

Tool:

Evaluation of the work of lawyers by client's satisfactory survey

Description of the way it works:

It can be helpful to evaluate the work of legal aid/court appointed lawyers by the clients: Surveys can question whether the client received the help he or she wanted/needed/expected and if he or she has been treated correctly etc.

Example of the tool already existing or concrete proposal:

FINLAND: In Finland, there is a new pilot system of client's satisfactory surveys that is anonymous but gives the authorities the overall knowledge as to quality of legal aid services

Do you have this tool in your system?

- yes
- no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:  
Peer review

Description of the way it works:  
The evaluation of the work of legal aid/court appointed lawyers can be done by other lawyers (peer review)

Example of the tool already existing or concrete proposal:  
NETHERLANDS: Peer review in the area of asylum law; in this field of law lawyers came to the agreement that clients are highly vulnerable and have little possibilities to complain if they were dissatisfied with the quality of the legal aid service by the lawyer as they are typically sent back to their home country after their application for asylum is refused (indeed there can be parallels to the field of criminal law as e.g. an imprisonment is also a drastic event in the life of people who could be harmed to complain in this situation); all lawyers decide on the implementation of the peer review system in a democratic vote and also they elect the peer who conducts the peer review; in order to do that the peer reviews the files of the lawyers regularly, attends court sessions and monitors new asylum lawyers

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool:**  
Evaluation of the work of lawyers by prosecutors and judges

**Description of the way it works:**  
It is also possible to evaluate the quality of lawyers amongst prosecutors and judges, but in this case it is quite important to avoid interference with the independence of the lawyers

Do you have this tool in your system?

- yes
- no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes
- no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool Box - Category: Terms of reference for an Audit of the Quality and Value of the Services provided by Lawyers**

**Tool:**

Draft concrete best practice standards/terms of reference for legal aid lawyers and auditing instruments to check on the compliance with the set criteria

**Description of the way it works:**

There are some minimum standards that can be identified in every system and even for all systems, that the quality of the work of a lawyer should be in line with. When it comes to the examination of this quality, every system has to comply with their constitutional guarantee of the independence of the legal profession. If any regulating bodies exist, it can be very helpful to set up binding minimum standards including terms of reference and auditing instruments.

It should be noticed that there are different approaches which are possible in that matter (ethical, professional and/or quality standards etc.)

**Example of the tool already existing or concrete proposal:**

USA and AUSTRALIA: Please see examples from Australia and USA here: <http://qualaid.vgtp.it/en/useful-information>

CCBE: Guidelines by the The Council of Bars and Law Societies of Europe (CCBE), which are rather general professional standards, applicable at [http://www.ccbe.eu/NTCdocument/EN\\_CCBE\\_CoCpdf1\\_1382973057.pdf](http://www.ccbe.eu/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf)

Do you have this kind of „checklists“ or quality standards and auditing instruments in your jurisdiction?

yes  no

If "yes" [have that kind of standards], what kind of standards do you have?

If "yes" [have that kind of standards], what are the terms of references for each standard in your system?

If "yes" [have that kind of standards], what kind of auditing instruments are used in order to evaluate whether the quality of legal aid provision in practice complies with the standards?

If "yes" [have that kind of standards]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment                      1                      2                      3                      4                      5

If "no" [don't have that kind of standards]: Do you think they should be existing?

yes  
 no

How should the standards be woven in your opinion?

Ethical  
 Substantial

Please justify why that kind of standards should/should not exist and why they should be/should not be binding.

## Tool Box - Category: Complaints

### Tool:

Establish a complaint system

### Description of the way it works:

This correlates with the idea of evaluation above, only that it depends on the beneficiaries' initiative of complaining and does not query the quality in general; the complaints can be processed by the institution which is responsible for organizing and/or providing legal aid or by another institution; this may be Legal Aid Institutes, courts, etc.

### Example of the tool already existing or concrete proposal:

**LITHUANIA:** A lawyer providing secondary legal aid may be replaced upon a written reasoned request of an applicant or the lawyer himself in the event of establishment of a conflict of interest or of other circumstances due to which the lawyer providing secondary legal aid cannot provide legal aid in a specific matter.

A decision on the replacement of the lawyer providing secondary legal aid shall be taken by the investigation officer, prosecutor or court.

There is established a special State Guaranteed Legal Aid Service (SGLAS) commission which resolves beneficiaries' complaints. If it appears that a lawyer has not acted under the acts, the commission sends the complaint to the Bar Association to evaluate their behaviour.

**NETHERLANDS:** There is a regular contact between the Deans of the Local Bar Association and the presidents of the courts and the prosecution service. Furthermore there is an exchange of information between the Legal Aid Board and the Deans. The Dean's duty is to check on formal or informal complaints about lawyers.

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Increase information for the beneficiaries about the possibility to complain

Description of the way it works:

In order to enable the clients to make use of their right to complain, it is important to inform them about the possibility and proceeding, e.g. in a user-friendly instruction about legal remedies

Example of the tool already existing or concrete proposal:

NETHERLANDS: Information about the possibility to complain is published on internet and is easily found with google, e.g. for Amsterdam <https://www.advocatenorde-amsterdam.nl/3225/complaints.html>

LITHUANIA: In Lithuania, information about the possibility to apply a complaint about a counsel is provided in SGLAS web page (see <http://vgtpt.lrv.lt/lt/klausimai-atsakymai>) and in the posters about legal aid provision.

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

## Tool Box - Category: Choice of Lawyer made by the Beneficiary/an Institution

### Tool:

Grant the beneficiary the right to choose a lawyer on his/her own; if no choice is made the appointment shall be made under transparent circumstances

### Description of the way it works:

When it comes to the situation that the beneficiary does not make use of his or her right to choose a certain lawyer, the choice can be made under the following circumstances:

- principle of equality
- random principle
- adjustment to the needs of the client, which may be a certain specialisation of the lawyer, language skills etc.; caution: This also entails the risk of misuse or at least misjudgment

### Example of the tool already existing or concrete proposal:

**NETHERLANDS:** When the beneficiary does not choose his or her own lawyer, they proceed after a random principle (when it is not a case of the duty solicitor scheme; in this case the choice is limited by matters of availability)

**LITHUANIA:** In Lithuania, Law on State guaranteed legal aid Article No. 21, parag. 3 guarantees the suspect or accused person has a possibility to choose a counsel he or she wants.

If the accused or suspect person wishes to have a counsel who is not in the list of legal aid providers, he or she should get the permission from that counsel and submit it to the investigation officer, prosecutor or court. These institutions submit this permission to SGLAS (coordinator) asking to choose the counsel. As soon as SGLAS makes an agreement with a counsel, it chooses this counsel and informs the investigation officer, prosecutor or court about it. These institutions appoint the counsel.

If an accused or suspected person wishes to have a counsel who is in the list of legal aid providers, he or she should inform the investigation officer, prosecutor or court. These institutions submit this information to SGLAS (coordinator) asking to choose the counsel. SGLAS chooses this counsel and informs the investigation officer, prosecutor or court about it. These institutions appoint the counsel.

**GERMANY:** In Germany the suspect/accused can choose his or her own lawyer; if it is not possible for the lawyer to take over the case, the judge chooses the lawyer in a decision covered by his or her judicial independence

### Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.



## Tool Box - Category: More Extensive Information of the Beneficiary

### Tool:

Compile a list of lawyers with different information

### Description of the way it works:

The right of selection of the beneficiary can be increased by information about the range of lawyers who can be chosen: This list must contain the contact data of course and can be completed with other information like specialisation, professional experience, language skills, but also personal information that can play a role for the choice like age, sex etc.; this list can be handed out by police officers e.g., but there are also more innovative options like giving access to a computer system or an App.

### Example of the tool already existing or concrete proposal:

LITHUANIA: State Guaranteed Legal Aid Service (SGLAS) has two lists of lawyers:

1. List of counsels who provide secondary legal aid permanently;
2. List of counsels who provide secondary legal aid in the case of necessity.

### These lists of counsels are in the SLAS's web page:

<http://vgtpt.lrv.lt/lt/advokatu-ir-taikinimo-tarpininku-sarasai>. These lists provide information about counsels' working place and division of law they are specialised in (administrative, civil or criminal)

NETHERLANDS: The Dutch Bar Association and the Legal Aid Board installed search engines on their websites providing information about lawyers who are handling criminal cases

Proposal from GERMANY: A legislative proposal from academics and criminal defense lawyers suggests that the local bar associations should provide lists with lawyers who are accepted to provide legal aid for individual districts, applicable at <https://www.hrr-strafrecht.de/hrr/archiv/18-02/index.php?sz=6>

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Ensure that the client is completely informed about his or her rights

Description of the way it works:

In order to guarantee a complete information of the client it would be possible to either grant the information personally and/or grant the information digitally by a Homepage/ an App etc.

Example of the tool already existing or concrete proposal:

Approach from Dr. Vicky Kemp working at University of Nottingham; she is working on an application to digitally deliver information to suspects at the police station, for further information see <https://www.nottingham.ac.uk/law/people/vicky.kemp>

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not imagine to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

### Tool Box - Category: Procedural Safeguards

Tool:

Requirement of an agreement of the client regarding to loss of rights

Description of the way it works:

Establish the duty for the client to sign certain procedural steps that lead to a loss of rights; e.g. such procedural steps can be the waiver of a request to appear as a witness regarding an alibi evidence; a guilty plea should only be possible for the accused to make

Example of the tool already existing or concrete proposal:

NETHERLANDS: When a suspect waives his rights this needs to be related in his own words in the police report

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5  
                                                                                       

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:  
Requirement of documentation

Description of the way it works:  
Lawyers can be obligated to document the course of working for the client

Example of the tool already existing or concrete proposal:  
GERMANY: Professional law provides a duty of documentation for attorneys in Section 50 Bundesrechtsanwaltsordnung, as to the exact wording of the provision, see [https://www.brak.de/w/files/02\\_fuer\\_anwaelte/brao\\_engl\\_090615.pdf](https://www.brak.de/w/files/02_fuer_anwaelte/brao_engl_090615.pdf)

Do you have this tool in your system?

yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes
- no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Revelation of ineffective defence in appeal procedures

Description of the way it works:

As it is especially problematic to interfere in an ongoing proceeding taking into account the independence of a lawyer, it is less problematic to control the defence subsequently in appeal proceedings; this is a safeguard countries can choose which have the particularity that their constitutional protection of the independence of a lawyer goes very far

Example of the tool already existing or concrete proposal:

GERMANY: The choice of the court appointed lawyer can be reviewed in appealing proceedings due to Section 304 Code of Criminal Procedure, as to the exact wording of the provision, see [https://www.gesetze-im-internet.de/englisch\\_stpo/englisch\\_stpo.html#p1883](https://www.gesetze-im-internet.de/englisch_stpo/englisch_stpo.html#p1883)

Do you have this tool in your system?

- yes
- no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes
- no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Confer procedural rights to the suspect/accused to ensure his or her possibility to participate in the proceedings and check on the quality of the defence on him- or herself

Description of the way it works:

E.g. grant the suspect the right to inspect the files or the right to be present in the main proceedings in order to enable him or her (or even to oblige him or her) to notice possible mistakes the defence lawyers makes

Example of the tool already existing or concrete proposal:

GERMANY: In the German main hearing the presence of the accused is mandatory, see Section 230 (1) and Section 231 (1) Code of Criminal Procedure, as to the exact wording of the provision, see [https://www.gesetze-im-internet.de/englisch\\_stpo/englisch\\_stpo.html#p1883](https://www.gesetze-im-internet.de/englisch_stpo/englisch_stpo.html#p1883)

GERMANY: The inspection of records in preliminary proceedings is possible with reservations for the suspect, see Section 147 (7) CCP, as to the exact wording of the provision, see [https://www.gesetze-im-internet.de/englisch\\_stpo/englisch\\_stpo.html#p1883](https://www.gesetze-im-internet.de/englisch_stpo/englisch_stpo.html#p1883)

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool Box - Category: Special Needs of fast Provision of Legal Aid in Detention Cases**

Tool:

Establish a duty solicitor scheme in order to guarantee a fast arrival of a lawyer

Description of the way it works:

There are many ways to guarantee that a lawyer arrives at the police station in time; one of them is a duty solicitor scheme for cases which are urgent, esp. custody cases

Example of the tool already existing or concrete proposal:

NETHERLANDS: Most criminal defence lawyers who provide legal aid in the Netherlands are also listed in the duty solicitor scheme (90%); police officers fill in an online application to contact a lawyer of the choice of the suspect or a randomly chosen lawyer which is available; lawyers have a respond period of 45 minutes and have to get to the police station within 2 hours

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool:**

Draft best practice standards which orient on the special needs of defence in situations at the police station

**Description of the way it works:**

It is typical for police questioning situations that the hearings come suddenly and lawyers have little time to prepare the case and also often have no access to the file records of the prosecution in this stage; for this and other reasons it makes sense to proceed after standardised schemes rather than in later stages of the trial; of course the proceeding should still orient on the client's interests and special needs as top priority

**Example of the tool already existing or concrete proposal:**

Proposal from the NETHERLANDS: Best practice for the defence lawyer at the police station during questioning of his client (the suspect) by Prof. Dr. Jan Boksem (applicable at [http://www.jura.uni-frankfurt.de/71952433/Defence-counsel-at-police-questioning\\_protocol-Jan-Boksem-DBA.pdf](http://www.jura.uni-frankfurt.de/71952433/Defence-counsel-at-police-questioning_protocol-Jan-Boksem-DBA.pdf))

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5  
                                                                                       

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

**Tool Box - Category: Operating Principles**

**Tool:**

Regulation of quotas in terms of lawyers who work as legal aid/court appointed lawyers and private lawyers

**Description of the way it works:**

In cases of low motivation and low competition between state financed lawyers, the state may define quotas in terms of the number of lawyers who work as both, legal aid/court appointed lawyer and private lawyer

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Create structures within the system to ensure that lawyers have enough time to prepare a case

Description of the way it works:

It would be possible to make agreements that lawyers have enough time to prepare a case, e.g. differentiate by categories like the complexity of the case, or to guarantee that lawyers are paid by working hours and not by a fixed salary

Example of the tool already existing or concrete proposal:

NETHERLANDS: Fixed fees for different types of services (flat rate) based on extensive analysis of the average time spent on legal aid cases and varies per type of case (e.g. 8 hours for criminal cases); fixed fees per case multiplied by an hourly rate (around 106 Euro); exceptions, that means extra fees per hour) only in very complicated cases (e.g. in very complicated criminal cases)

Do you have this tool in your system?

yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5



If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions. Please especially take into account if it has the desired effect that lawyers in fact have enough time to prepare the cases.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes
- no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:  
Privilege lawyers in later stages of the proceeding who have worked in earlier stage

Description of the way it works:

In order to ensure the continuity of the defence, it makes sense to privilege lawyers who have been involved in the case in an earlier stage of the proceeding, provided that the client has not complained about the lawyer of course; this can be done by persons who are obligated to check this information first or by a system which first seeks for a lawyer having been appointed in an earlier stage

Do you have this tool in your system?

- yes
- no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

	1	2	3	4	5
Your assessment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes
- no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Simplify procedures (from the client's perspective) and make them more user-friendly

Description of the way it works:

It saves money and can be more user-friendly to reduce any unnecessary bureaucracy, e.g. by applying automation/digitalisation within the system; moreover the operation of the system should be user-friendly, e.g. electronic programs or staff may correct applications from beneficiaries if they contain mistakes

Example of the tool already existing or concrete proposal:

NETHERLANDS: There is daily electronic exchange of relevant financial information between the Legal Aid Board (LAB) and the tax office. There is also 24/7 electronic exchange of information between the police and the LAB to appoint a duty solicitor

NETHERLANDS: Use of the Roadmap to Justice (Rechtwijzer):

The Legal Aid Board (LAB) remains committed to the development of innovative web based applications for citizens to be helpful in resolving their disputes. In cooperation with the University of Tilburg, the LAB facilitates the project Roadmap to Justice (Rechtwijzer) for citizens with a legal conflict or problem: a preliminary provision that helps people find solutions for their legal problems in an interactive manner. With the site [www.rechtwijzer.nl](http://www.rechtwijzer.nl) citizens can actively work to find a solution to their conflict or problem. Where necessary, they will be referred to an appropriate person or organization; for further information click here [http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid\\_juni2013\\_webversie.pdf](http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf)

NETHERLANDS: Method of High Trust concerning applications by lawyers:

Many lawyers regarded the application for a certificate as burdensome and time consuming, and the verification as bureaucratic. Therefore alternatives were considered to simplify the verification of applications and expense statements. The Legal Aid Board (LAB) introduced a High Trust method for dealing with the applications for certificates. This High Trust method implies that the LAB and lawyers work together on the basis of transparency, trust and mutual understanding. The High Trust method involves greater compliance on the part of the legal profession, both as to administrative proceedings of rules and working in accordance with the law, fixed procedures and support facilities such as Kenniswijzer (an online tool of the LAB with information about legislation, jurisprudence and guidelines for the application of certificates). The LAB develops specific tools for compliance assistance, such as information and instruction meetings, which are free of charge for lawyers under High Trust. The basic philosophy underlying High Trust is that trust among a larger group of people will more readily lead to positive cooperation and compliance than institutionalised distrust. The first results already confirm this. The number of offices that are time consuming for the LAB in dealing with applications is fast diminishing. At the same time, the number of offices that have a good relationship with the LAB is increasing fast; for further information click here [http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid\\_juni2013\\_webversie.pdf](http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf)

Proposal from LITHUANIA:

A new IT system TEISIS started being prepared. TEISIS will simplify procedures to get legal aid: it will collect all necessary information from various public institutions about the clients automatically; the system will be able to prepare simple drafts of decisions to choose a counsel and automatically inform the investigation office, prosecutor or court

Do you have this tool in your system?

- yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                  2                  3                  4                  5  
                                                                       

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

Tool:

Provide first line legal aid, esp. if legal aid depends on an application

Description of the way it works:

If it is not self-explanatory it is helpful to provide first line legal aid in order to advise the beneficiary on the requirements of access to second line legal aid

Example of the tool already existing or concrete proposal:

NETHERLANDS: First line legal aid is provided by the legal service counters, free of costs; for further information please click here [http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid\\_juni2013\\_webversie.pdf](http://www.rvr.org/binaries/content/assets/rvrorg/informatie-over-de-raad/brochure-legalaid_juni2013_webversie.pdf)

LITHUANIA: First line legal aid is provided at the municipalities, free of charge, to any resident of that municipality.

Do you have this tool in your system?

yes  
 no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                  2                  3                  4                  5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

- yes  
 no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

### Tool Box - Category: Payment and Costs

Tool:  
Increase Payment

Description of the way it works:  
As a matter of course the motivation of lawyers correlates with the payment

Example of the tool already existing or concrete proposal:  
LITHUANIA: The indexation of the remuneration of the lawyer is based on the national consumer price index trying to adjust it to the needs of the working population

For a comparison of the money countries spend on legal aid (not only for criminal matters) see the following study from 2014: applicable at [http://www.hiil.org/data/sitemanagement/media/Report\\_legal\\_aid\\_in\\_Europe.pdf](http://www.hiil.org/data/sitemanagement/media/Report_legal_aid_in_Europe.pdf) p. 49

Do you think you have an adequate payment in your system?

- yes  no

Please explain why you find the payment in your system adequate/not adequate and if not what concrete improvements have to be done in your opinion.

Tool:  
Distribute costs for proceedings due to the principle "initiator pays"

Description of the way it works:  
In order to discipline lawyers who tend to postpone court hearings it would be an option to make the lawyer reimburse the costs arising from the delay

Example of the tool already existing or concrete proposal:  
GERMANY: In Germany such a regulation exists in Section 145 (4) Code of Criminal Procedure, as to the exact wording of the provision, see [https://www.gesetze-im-internet.de/englisch\\_stpo/englisch\\_stpo.html#p1193](https://www.gesetze-im-internet.de/englisch_stpo/englisch_stpo.html#p1193)

Do you have this tool in your system?

yes

no

If "yes" [have this tool in your system]: How important, in your assessment, is this tool for guaranteeing a high level of legal aid in criminal matters (or a functional equivalent) in your jurisdiction? Please rate the importance on a scale from 1 to 5 (1-not important at all, 5-very important)

Your assessment      1                      2                      3                      4                      5

If "yes" [have this tool in your system]: Please explain how exactly the tool works in your jurisdiction, if you think it is of good practice and could be inspiring for other jurisdictions.

If "no" [don't have this tool in your system]: Could you imagine to adopt it?

yes

no (please describe why)

If "no" [could not image to adopt it]: Please describe which characteristics of your system inhibit that.

If you have further comments on the tool, please feel free to communicate.

### Further Ideas for Tools?

Do you have further ideas for tools, quality indicators or other annotations?

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Tool	Tool Box-Category	Rating (1-not important at all, 5-very important)	Assessment
<p><b>Establish a duty solicitor scheme in order to guarantee a fast arrival of a lawyer</b></p>	<p>Special Needs of fast Provision of Legal Aid in Detention Cases</p>	<p><b>4,30</b></p>	<p>Respondents from the <b>Netherlands</b> confirm that their system which is explained in the description of the tool works quite well and could be an example for best practice.</p> <p>An academic from <b>UK</b> explains that there is an established duty solicitor scheme for police stations and another one for magistrates` courts in England and Wales. The respondent states that this is essential in ensuring access to good quality legal advice for people who do not have their own solicitors. It also circumvents the police or court from choosing a `friendly` solicitor.</p> <p>One member of the ministerial bureaucracy in <b>Latvia</b> describes that in the planned procedural steps, the lawyer always arrives as planned, while unplanned and urgent actions may also be assigned to an attorney from on-call time, which means that the lawyer will arrive within a few hours or immediately.</p> <p>A policy maker from <b>Lithuania</b> claims that advocates providing legal aid in mandatory defence cases are not required to be present at a police station (or in court) in a certain time period. However, also lists of duty advocates exist for weekends and public holidays. The pretrial investigation officer, prosecutor or judge has to contact an advocate if legal aid is required urgently.</p> <p>A researcher from <b>Bulgaria</b> declares that they have a system for appointment of legal aid lawyers in cases of detention, whereas the rosters are regional and managed by the local bar councils.</p> <p><b>Malta</b> and <b>Portugal</b> explain that they also have similar systems of a duty solicitor schemes.</p> <p>In <b>Austria</b>, it is organised in a hotline free of charge that the suspect can call according to a lawyer from Austria. The police has to inform the suspect about this right to call the hotline. There are 18 lawyers on duty to intervene.</p>
<p><b>Confer procedural rights to the suspect/accused to ensure his or her possibility to participate in the proceedings and check on the quality of the defence on him- or herself</b></p>	<p>Procedural Safeguards</p>	<p><b>4,09</b></p>	<p>Respondents from <b>Greece, Lithuania, Austria</b> and <b>Bulgaria</b> explain that they also guarantee the suspect the right to inspect the case files and to be present at the main hearing.</p> <p>In <b>Latvia</b>, a member of the ministerial bureaucracy declares that the participation is possible together with the lawyer.</p> <p>One lawyer from <b>Germany</b> quotes “quod non est in actis non est in mundo” and probably points to the risks that arise from facts that are not documented in the files, but are hidden and stay hidden for suspects without an experienced lawyer.</p> <p>One respondent from the <b>Netherlands</b> demands consequences in case it turns out the defence counsel has made a mistake like a proper financial compensation in case of malignant review.</p>

<p><b>Provide first line legal aid, esp. if legal aid depends on an application</b></p>	<p>Operating Principles</p>	<p><b>4,06</b></p>	<p>One researcher of a non-profit organisation in <b>Bulgaria</b> shares her insight that there is a national telephone hotline where people can call, talk to lawyer for 15 minutes for free and get information how they can access more detailed legal advice and representation, but his or her impressions are that this is mostly used for civil and family law matters and very rarely for criminal law cases.</p> <p>One lawyer from <b>Lithuania</b> explains that the persons in municipalities providing legal aid cannot be specialised in all fields of law, thus sometimes misconceptions appear.</p> <p>One lawyer from the Netherlands thinks legal service counters are not very effective.</p> <p>One academic from <b>UK</b> explains that there is a problem if solicitors have submitted a legal aid application form but a decision has not been made but the court wants to deal with the case at the first hearing; then the solicitor might have to go ahead and act for their client not knowing whether this will be on pro bono basis if legal aid is later refused.</p> <p>One member of the ministerial bureaucracy in <b>Latvia</b> explains that they do not provide first line legal aid and he or she does not consider it effective in respect of the principle of continuity.</p> <p>One academic from <b>Germany</b> states that first line legal aid is not relevant if only a merits test exists and is implemented in line with the Legal Aid Directive 2016/1919.</p>
<p><b>Requirement of specialisation</b></p>	<p>Trainings and Qualification</p>	<p><b>4,04</b></p>	<p>3 participants from the <b>Netherlands</b> (1 police officer, 1 prosecutor and 1 academic) agree that the system in the Netherlands, which was given as an example in the introduction of the tool (permanent education system with an obligation to collect points constantly), works quite well. The academic from the Netherlands states that nevertheless, improvements are possible and suggests to incentivise lawyers to show more interest in the courses by introducing tests for example.</p> <p>One respondent from <b>Bulgaria</b> explains that they have the requirement for legal aid lawyers to declare in which areas they are specialised, but the National Legal Aid Bureau does not verify this statement.</p> <p>One respondent from <b>Scotland</b> explains that they have no Criminal Specialty that the Bar accredits and states that as long as they have no rigorous and objective accreditation system, the respondent would not favour its introduction in Scotland.</p> <p>One respondent from <b>Germany</b> indicates that the specialisation in criminal law could be a recommendation, but not a requirement, at least not concerning lawyers who are chosen by the beneficiary, because such a requirement would limit the beneficiary the choice of his or her lawyer of trust. Furthermore the German respondent stressed that also young lawyers should have the possibility to work as court appointed counsels, which would not be possible if there was a requirement for all court appointed counsels to be specialised in criminal law, because this demands a certain amount of cases and a certain time of practice.</p> <p>One respondent from <b>Bulgaria</b> pointed to the fact that in Bulgaria about 1/3 of the population lives in small towns and about 1/3 in villages and the transport infrastructure is not well developed, which leads to the fact that many lawyers work as generalists in many areas. The requirement of specialisation would limit the choice of the beneficiaries too much.</p> <p>In <b>Lithuania</b>, one respondent claims that the bar exam is very difficult to pass and this is enough to ensure professionalism.</p> <p>The statements from Bulgaria and Germany can be grouped under the heading of „inadmissible restriction of the choice of the beneficiary“.</p>

			<p>In <b>Malta</b>, one respondent indicates that the archaic system whereby all lawyers think they can provide all kinds of specialisation inhibits the introduction of a requirement of specialisation; in addition the respondent explains that the Legal Aid Agency is a small entity with a rather small allocation of funds. This objection rather has to do with political power than with content-related objections.</p> <p>One respondent from <b>UK</b> doubts the correspondence between the requirement of specialisation and a high quality of legal aid or at least points out that this can only be an „input“ measure and is not a good proxy for measuring quality of performance. Moreover, high entry barriers to practice tend to be favoured by the Bar as a way of restricting competition rather than because it has been proven to assure quality of performance.</p>
<b>Requirement of an agreement of the client regarding to loss of rights</b>	Procedural Safeguards	<b>4,00</b>	<p>Respondents from <b>Finland, Latvia, Netherlands, Lithuania</b> and <b>Austria</b> explain that they have the requirement of the agreement of the beneficiary if he or she decides not to have a lawyer in one or the other way:</p> <p>In <b>Finland</b>, the police officer has to make sure that the suspect has a proper understanding of his or her situation.</p> <p>In <b>Latvia</b>, a separate record is necessary.</p> <p>In <b>Lithuania</b>, the waiver of rights has to be written.</p> <p>In the <b>Netherlands</b>, the waiver of right has to be recorded by authorities and requires a signed statement of the suspect.</p> <p>One lawyer from <b>Greece</b> and one academic from the <b>Netherlands</b> point to the danger that even a waiver of rights can be made under pressure. One lawyer from <b>Austria</b> also sees that risk and explains that the denounce lawyer organization demands that an arrested person should have at least telephone contact with a lawyer of the on-call service before waiving his or her rights.</p> <p>It is obvious that the respondents have little to say to that tool. It might be an explanatory approach that this category focuses on procedural questions, which might lead to the fact that less people who are experts in the area of legal aid (sometimes in other areas than in criminal matters) can give a sound assessment of this mechanisms.</p>
<b>Create structures within the system to ensure that lawyers have enough time to prepare a case</b>	Operating Principles	<b>4,00</b>	<p>One policy maker from <b>Finland</b> explains that public attorneys who work at the state legal aid offices are paid a monthly salary. Private lawyers are paid by working hours or in some cases they are paid fixed fees.</p> <p>One academic from the <b>Netherlands</b> states that this is an important tool, but lawyers always complain about the height of remuneration, so he or she thinks the government funding should possibly be increased.</p> <p>One academic from <b>UK</b> explains that a fixed fee is paid for the vast majority of criminal cases in the police station. While a higher fee can be paid for complex cases involving serious offences, the threshold is seldom met. This means that experienced solicitors are discouraged from providing police station legal advice, even when dealing with very serious offences, such as murder and terrorism offences. This work can go to paralegals or to agents because of the length of time taken which is not remunerated.</p>
<b>Grant the beneficiary the right to choose a</b>	Choice of Lawyer made by the Beneficiary	<b>3,96</b>	<p>Most respondents describe that the beneficiary (at least theoretically) has the right to choose a lawyer at first. Some respondents describe the problems to put this right into practice, for example one lawyer from <b>Lithuania</b> explains that very rare clients know about this possibility. He or she states that the lawyer is chosen by the institution and the clients just meet them in court or in pre-trial. This correlates with the information of the beneficiary (see the category “<i>more extensive information of the beneficiary</i>” afterwards).</p>



<p><b>lawyer on his/her own; if no choice is made the appointment shall be made under transparent circumstances</b></p>	<p>y/an Institution</p>		<p>Other respondents stress that the right to choose the lawyer has to be adjusted in the pre-trial stage in order to guarantee a fast provision of legal aid, like one academic from the <b>Netherlands</b> explains, that random selection is a quick and efficient way of getting a lawyer in time to a client; he or she is of the opinion that a more tailor-made system would be too slow. One academic from <b>UK</b> answers that people in the police station (as well as in court) have the right to choose their own solicitor. There are restrictions in the police station because for very low level offences only telephone advice from a defence solicitor call-centre can be provided. For this question see the category “<i>special needs of fast provision of legal aid in detention cases</i>”.</p> <p>One member of the ministerial bureaucracy from <b>Latvia</b> explains that in criminal cases, persons can choose attorneys at their discretion if they pay for it at their own expense. In the case that a lawyer is financed by legal aid, he or she is provided to the beneficiary by chance according to an on-call service or a practicing lawyer belonging to a court of law. The respondent explains that so far there have been no problems for individuals being frustrated about a secured lawyer. Therefore, at present, there is no apparent need to allow a person to choose a state-provided lawyer, given that not everyone knows which lawyer they want. The respondent states that in the event that it was determined to grant the beneficiary the right to choose his or her own lawyer, it would be necessary to discuss this with industry professionals and the institutions involved.</p> <p>One respondent from the legal aid board in <b>Malta</b> gives insight that nepotism might be the consequence if the beneficiary was granted the right to choose his or her own lawyer. In order to eliminate this, the respondent explains for civil law that the legal aid lawyer is appointed by an application to the First Instance of the civil court and according to the duty rota.</p> <p>One lawyer from <b>Austria</b> explains that legal aid is not remunerated directly to the lawyer, but to the bar by paying into the lawyer’s pension system. Therefore, every lawyer has to take over a certain number of cases and the freedom to choose for the beneficiary of legal aid might therefore lead to a disruption of the system.</p>
<p><b>Simplify procedures (from the client’s perspective) and make them more user-friendly</b></p>	<p>Operating Principles</p>	<p><b>3,93</b></p>	<p>One academic from <b>UK</b> is of the opinion that procedures can be simplified but for the benefit of the court and court users rather than the defendant. Virtual courts and video-conferencing can be used in circumstances that do not take into account vulnerabilities. He or she is in favour of simplified procedures which put the suspect/defendant at the centre of proceedings. There are steps which can be taken to simplify certain things, such as filling out a means form, but it is his or her view that the needs of the suspects/defendant need to be at the forefront of such change to ensure that the introduction of measures do not undermine procedural safeguards.</p> <p>One researcher for a non-profit organisation in <b>Bulgaria</b> explains that there is an electronic exchange of documents between the local bar councils and the Legal Aid Board, but paper copies are still kept, which reduces the risks from legal aid providers abusing the system – i.e. submitting for funding several reports for one and the same case (these cases were rare though). The best result is that it allows the Legal Aid Board to monitor the distribution of the legal aid cases between the legal aid providers and serves as a stimulus for the local bar councils to set clear and transparent rules for the selection of legal aid providers in every particular case). He or she gives insight that there is the possibility for the Legal Aid Board to exchange information electronically with the social welfare system in order to check on the income levels of the legal aid applicants when necessary.</p> <p>One lawyer from the Netherlands is afraid that the government using ICT could jeopardise the lawyer client privilege.</p>

<p><b>Ensure that the client is completely informed about his or her rights</b></p>	<p>Choice of Lawyer made by the Beneficiary/an Institution</p>	<p><b>3,88</b></p>	<p>All respondents explain that they have the obligation to inform the suspect about his or her right in a language he or she understands. Some explain, that this information is granted written, some explain that police officers provide the information. One lawyer from <b>Austria</b> is concerned that the form with the information about the suspect's rights is too technical so that many suspects do not really understand it.</p> <p>One academic from <b>UK</b> informs about a suspect's app being developed (which is also explained in the introduction of the tool). One researcher from a non-profit organisation in <b>Bulgaria</b> has concerns about using such an app and stresses that the large share of the suspects are illiterate; he or she explains that in 2015 in Bulgaria also about 10 % were foreign nationals and 16 % did not speak Bulgarian.</p>
<p><b>Requirement of documentation</b></p>	<p>Procedural Safeguards</p>	<p><b>3,76</b></p>	<p>Respondents from <b>Austria, Lithuania, Bulgaria</b> and <b>the Netherlands</b> explain that they have this requirement of documentation quite similar to the example in Germany that was given in the description of the tool.</p> <p>Respondents from <b>Bulgaria, Lithuania</b> and <b>the Netherlands</b> describe that this documentation is also necessary for the payment of the lawyers and has to be addressed to the Legal Aid Board (or equivalent in the certain state). Maybe because of this relation one academic from the <b>Netherlands</b> doubts that this requirement could benefit the quality of legal aid.</p> <p>One respondent from <b>Germany</b> points out that this requirement of documentation could be overruled by the new General Data Protection Regulation from May 2018.</p> <p>One member of the ministerial bureaucracy from <b>Latvia</b> claims that a lawyer cannot be obliged to document his or her work because it is protected by the principle of confidentiality. An attorney is obligated to enter into a criminal case by entering into an agreement with a person and to issue a warrant which is evidence of the lawyer's right to stand as a defender in a particular case.</p> <p>One lawyer from <b>Lithuania</b> is of the opinion that there is no big need for documentation.</p> <p>One lawyer from <b>Austria</b> explains that lawyers usually document their cases, but they are not obliged to grant access to the documentation.</p>
<p><b>Draft concrete best practice standards/terms of reference for legal aid lawyers and auditing instruments</b></p>	<p>Terms of reference for an Audit of the Quality and Value of the Services provided by Lawyers</p>	<p><b>3,73</b></p>	<p>The participants of the survey do not give concrete terms of reference. The <b>Finish</b> system consists of five evaluation areas containing a total of 36 evaluation statements (some of them are assessed by the clients, some of them by the attorneys). Another participant from the <b>Netherlands</b> suggests a division of the categories in a similar way as they have it in the Code of practice for lawyers into the following categories: The social role of the lawyer, the lawyer-client relationship, the relationship of the lawyer to other participants in the legal system and the relationship of the lawyer to his or her professional organisation.</p> <p>One participant of the <b>Netherlands</b> claims that they have best practice standards in family law and psychiatric patient's law and it is of no use because it is immediately outdated and too inflexible.</p> <p>Most answers show that the jurisdictions only have disciplinary measures which are used by the bar associations in a not prescribed way. Some use the instrument of the peer review to check on the professional standards (for more information, see the tool "peer review").</p> <p>One participant from <b>Germany</b> is of the opinion that if standards existed, they should not be binding or at least predefine only a very minimum. Because if they went further, it would not be able for the courts (who could</p>

<p><b>nts to check on the compliance with the set criteria</b></p>			<p>be the only instance to check on the standards) to use those higher standards. Furthermore, the German participant (a judge) states that national standards are not suitable for all systems in the EU.</p> <p>One participant from <b>Bulgaria</b> explains that they are right now discussing in the national legal aid bureau whether to incorporate a checklist with standards into the obligatory reporting from the legal aid providers in criminal cases.</p> <p>One participant from the <b>Netherlands</b> states that the standards should be binding from a dean point of view.</p> <p>One participant from <b>Palestine</b> highlights that it is important to differentiate between the categories of ethical and substantial standards (as we did in the survey).</p> <p>One participant from <b>Latvia</b> (ministerial bureaucracy) sees no risks in the establishment of standards, regardless if they were ethical or substantial they could only enhance the quality of legal aid.</p>
<p><b>Privilege lawyers in later stages of the proceeding who have worked in earlier stage</b></p>	<p>Operating Principles</p>	<p><b>3,71</b></p>	<p>Respondents from <b>Latvia</b>, the <b>Netherlands</b>, <b>Lithuania</b> and <b>Austria</b> explain that they try to proceed according to the principle of continuity. A policy maker from <b>Lithuania</b> stresses that this practice benefits the beneficiary as it is more likely that he or she trusts in the advocate who knows his or her case. An academic from the <b>Netherlands</b> agrees that this benefits the quality of the defence as the lawyer knows the case and the client.</p> <p>One researcher for a non-profit organisation from <b>Bulgaria</b> explains that in Bulgaria, it is in the interest of the legal aid provider to complete the case, thus there is no need to regulate a certain procedure that would guarantee this effect.</p> <p>One lawyer from <b>Austria</b> warns that on the other hand, it has to be easier to change the appointed lawyer as it now is the current situation in Austria.</p>
<p><b>Online-Trainings for lawyers</b></p>	<p>Trainings and Qualification</p>	<p><b>3,67</b></p>	<p>One respondent from <b>Belgium</b> informs that they have the same online tool as the Netherlands, a website which provides trainings for lawyers in pretrial detention situations.</p> <p>One lawyer from <b>Lithuania</b> explains that he or she had not been informed about the existence of the online training tool that is mentioned in the description of the tool until he or she read it. This shows that not only the existence of such (informal) tools is important, but also the information about it. Maybe it can be considered to register all online tools for lawyers (in pretrial detention cases) on a European level (maybe initiated by the ECBA).</p> <p>One member of the Ministerial bureaucracy points out that he or she is not sure whether lawyers use the mentioned online training tool in <b>Lithuania</b>. He or she reminds that a lot of lawyers are too old to be willing to use the internet and for them, live seminars are the best option.</p> <p>One academic from the <b>Netherlands</b> also doubts that many lawyers would use online training tools, but for another reason: He or she states that they take too much time to undertake. Only a lot of different quick reference guides he or she would find helpful.</p> <p>One lawyer from <b>Germany</b> considers it an advantage that everyone can do the online courses at any time at home.</p> <p>This shows that all in all online trainings are a subject of disagreement. It can be a very flexible extra option for people who are familiar with the technology of the internet. It seems not to be an alternative to trainings people attend physically, but maybe an addition.</p> <p>The reasons which are supposed to inhibit the establishment of online tools are not necessarily resounding: One lawyer from <b>Germany</b> indicates “not required“, one academic from Germany supposes the training effect to be very low.</p>

			<p>One respondent from <b>Palestine</b> answered with “yes“ (has obviously not got the question) and one respondent from <b>Bulgaria</b> claims the opposite of the the question, which is that the online trainings should be obligatory for legal attorneys and should be part of the scheme for the certification of the National Legal Aid Bureau.</p>
<p><b>Revelation of ineffective defence in appeal procedures</b></p>	<p>Procedural Safeguards</p>	<p><b>3,59</b></p>	<p>One policy maker from <b>Finland</b> answers that according to the legal aid act, a court in a matter being heard by the court may on the reasoned request of the beneficiary or of the attorney or for a valid reason also on his or her own initiative, revoke the appointment of the attorney and arrange a replacement. A lawyer from <b>Austria</b> explains that only if an appointed lawyer was deeply ineffective and incompetent, the court may inform the chamber to guarantee a better representation.</p> <p>One lawyer from <b>Austria</b> has serious concerns about any forms of quality surveillance (he or she points to the concerns mentioned regarding evaluation of the work of lawyers, that when it comes to clients in the opinion of the respondent are not based on a sound understanding, when it comes to peer review or evaluation he or she fears the assessment would be too biased). Also concerning the control by judges via the tool of appeal procedures he or she sees the risk that judges prefer lawyers who are easy to get along with. A lawyer from the <b>Netherlands</b> thinks the independency of the bar inhibits the implementation of this tool.</p> <p>One academic from <b>UK</b> explains that he or she would find it useful to have a mechanism that takes into account the potential failures of defense solicitors which could lead to a miscarriage of justice. However the respondent gives insight that the Criminal Cases Review Commission in England and Wales has concerns over an increase in miscarriages of justice due to the fee structure which can lead to poor quality legal advice and representation.</p>
<p><b>Trainings for the lawyers/for stakeholders within their groups or together with other stakeholders</b></p>	<p>Trainings and Qualification</p>	<p><b>3,58</b></p>	<p>The respondents from the <b>Netherlands</b> confirmed that their cooperation between the different stakeholders works out quite well and that the ASAP programme, which is mentioned in the description of the tool, plays an important role, but also one respondent indicates this mainly depends on the way the institutions interact with each other (it might not work out in all systems). One respondent highlighted that in the ASAP programme prosecutors work together with the police and specialists from other disciplines (reclassering, specialist for children and victims), but he wishes that there also was a lawyer present in this cooperation, because a lawyer can react from the very first moment: not to frustrate the system, but to create the best solution for the reason his or her client has offended the law (e.g. he or she need a home, uses drugs, has whatever reasons to beat his wife etc.).</p> <p>One respondent from <b>Latvia</b> explains that advocates have to increase their qualification regularly by attending lectures, seminars, conferences and other training events in subjects that are related to law and also other fields of expertise necessary for working as a lawyer such as: accounting, finance, psychology, medicine, foreign language courses in the field of law etc.</p> <p>One respondent from <b>Germany</b> explains that in Germany the tool already exists for <i>Fachanwälte</i> (specialised lawyers) with a sufficient extent of training requirements (15 hours of certified training per year). However, the question is only addressed to jurisdictions which don't have the tool in their system.</p>

<p><b>Peer review</b></p>	<p>Evaluation</p>	<p><b>3,58</b></p>	<p>Professor <i>Sherr</i> and Professor <i>Paterson</i> from <b>UK</b> developed the peer review system 20 years ago and for 16 years or more it has been rolled out in England and for all legal aid lawyers in Scotland. They are convinced that the strength of peer review of files or court performances by experienced/ expert lawyers is that it is the best way of assessing process and outcome measures of quality. They admit it is more expensive than input measures such as education and training but it is closer to evaluating the quality of what lawyers do. The system has been copied in a range of other countries. The Dutch system in Asylum cases (which is mentioned in the introduction of the tool) came from them. So too does the system in South Africa and in Chile. In China the Scots peer review system is being rolled out to all civil legal aid lawyers. They have run pilots in Georgia, Finland, Moldova and Ontario. For more information, please see the following article: <a href="https://www.albertalawreview.com/index.php/ALR/article/viewFile/341/338">https://www.albertalawreview.com/index.php/ALR/article/viewFile/341/338</a></p> <p>One academic from <b>UK</b> adds that the peer review system is well-established, but can only give assurances as to how well a firm manages their files. Information has to be contained about what advice was given at the police station and what happened at court, but this does not include an assessment of the individual providing such advice or representation.</p> <p>One lawyer and a judge from <b>Germany</b> as well as a policy maker from <b>Lithuania</b> and a lawyer from <b>Austria</b> are concerned about the independency of the legal profession of advocates.</p> <p>Several respondents also expect high efforts and costs.</p> <p>One lawyer from the <b>Netherlands</b> mentions the alternative to have an informal group to discuss matters monthly instead of such a strict system.</p>
<p><b>Establish a complaint system</b></p>	<p>Complaints</p>	<p><b>3,56</b></p>	<p>The respondents are of different opinion when it comes to that tool affecting the quality of legal aid. One academic from <b>UK</b> for example states that it is not a good way of assessing the quality because of the following reasons: He or she thinks it underreports dissatisfaction, it is always reactive, it does not allow proactive investigation (risk based review) and the clients can only assess part of the quality.</p> <p>In contrast to that, one academic from the <b>Netherlands</b> states that this tool benefits the quality of the bar without infringing its independency.</p>
<p><b>Draft best practice standards which orient on the special needs of defence in situations at the police station</b></p>	<p>Special Needs of fast Provision of Legal Aid in Detention Cases</p>	<p><b>3,56</b></p>	<p>An academic from <b>UK</b> answers that they have Guidelines from the law society. A lawyer from <b>Austria</b> states that it is ineffective and reasons it by indicating that it is not used by many arrested persons, which shows that the question has probably been misunderstood. One academic from the <b>Netherlands</b> highlights the importance of a decent legal assistance in an early stage of the proceeding.</p> <p>An academic from <b>UK</b> answers that defence solicitors can be put under pressure by the courts to get their client to enter a plea at the first hearing even though they did not represent them at the police station and they do not have information from the prosecution. The respondent states that this is inappropriate and the earlier and active involvement of defence solicitors could help to increase efficiencies if they were involved early on, had meaningful disclosure, and were in a position to advise their client prior to the first hearing.</p> <p>A member of the ministerial bureaucracy gives insight that the Ministry of Justice in <b>Latvia</b> does not know if lawyers have any standards of best practice in their duties.</p> <p>One lawyer from the <b>Netherlands</b> does not see the need for best practice standards, because he or she finds it in the responsibility of the lawyer how to handle the case.</p>

<p><b>Increase information for the beneficiaries about the possibility to complain</b></p>	<p>Complaints</p>	<p><b>3,45</b></p>	<p>Respondents from <b>Finland, Lithuania</b> and the <b>Netherlands</b> explain that they provide the necessary information for the beneficiary on the internet. One member of the ministerial bureaucracy in <b>Lithuania</b> adds that this information also should contain the information about the possibility to change the lawyer if the beneficiary has complaints against him or her. One academic from <b>UK</b> wants to make it easier for people to raise a complaint against practitioners in the criminal legal process and therefore designs an App, also incorporating a feedback form that could be used to raise a complaint against the police and or the defence. One consultant in a judicial reform from <b>Bulgaria</b> is of the opinion that a detailed regulation of the complaint system and the information that have to be provided on that is needed, as in practice there is rarely provided information in Bulgaria.</p>
<p><b>Evaluation of the work of lawyers by prosecutors and judges</b></p>	<p>Evaluation</p>	<p><b>3,42</b></p>	<p>One member of the ministerial bureaucracy in <b>Lithuania</b> indicates that they had a survey by pre-trial investigation officers, prosecutors and judges; he or she thinks it is a good and necessary tool, despite that all parties fill the surveys from their point of view, sometimes not knowing about the specifics of work of the evaluated persons. One academic from <b>UK</b> warns that care has to be taken concerning this tool, as e.g. many of the difficulties faced by defence solicitors, for instance, could be due to problems with the prosecution. Having prosecutors evaluate the defence might detract from those problems. There could also be difficulties in the court of judges having a preference for barristers over solicitor advocates. He or she still is of the opinion that, done well, judges could provide assessments and in a way that any potential for bias could be picked up. One member of the ministerial bureaucracy in <b>Latvia</b> states that lawyers are supposed to object to this type of assessment with reference to the lawyer's independence and confidentiality. One police officer from the <b>Netherlands</b> is of the opinion that this task cannot ever be done by other parties which have their own specific role in the chain of prosecution, as he or she thinks this is against the basics of criminal proceedings. Other respondents agree and answer in a similar way that this would be an interference with the client-attorney privilege (<b>Germany</b>), the constitutional principle of separation of powers (<b>Bulgaria</b>), independency of the lawyers (<b>Austria</b>), a violation of the principle of rivalry (<b>Lithuania</b>), not objective (<b>Lithuania</b>), not possible in an adversarial system (<b>Israel</b>), an infringement of the independency of the bar (<b>Netherlands</b>). One academic from <b>UK</b> explains that they were going to introduce such a system to measure the quality of defence lawyers by judges in England, but this system would not have worked because judges will not be trained and monitored for consistency. It also changes the dynamic of the courtroom. Asking the opponent to assess your quality (the prosecution) would not either work in his or her opinion. There is too great a potential for conflict of interest or bias.</p>
<p><b>Establish meetings on a structural basis amongst professionals within the field of criminal law</b></p>	<p>Trainings and Qualification</p>	<p><b>3,41</b></p>	<p>One respondent from <b>Germany</b> points out that such meetings exist, but only a very small group of professionals who are very active and practicing on a high level anyway take part in those meetings. In <b>Bulgaria</b>, one respondent indicates that there is the same effect: That kind of meetings exist, but they are not obligatory. Furthermore he or she describes that people in the meetings very often do not support a constructive discussion, but only give information. In <b>Belgium</b>, one respondent indicates that they also have such meetings, but anyway they are very local and most of the time related to the editors of legal</p>

			<p>doctrines. In his or her opinion a more structural organisation would be more efficient and useful.</p> <p>All in all, the most respondents would welcome those kind of meetings where representatives of all professions could exchange their views on specific topics and in general. It is crucial though that the atmosphere is constructive and free of constraints and prejudices. Maybe it would be best if a neutral institution (the Ministry of Justice or academics?) initiated those meetings regularly and professionally.</p> <p>One respondent from <b>Bulgaria</b> (researcher for a non-profit organisation) could not imagine to adopt the tool and explains that all practicing lawyers in the Bulgaria are rather sensitive regarding the safeguards of the constitutional principle for the separation of powers. He or she states that it is not customary for the defense lawyers to participate in trainings or professional discussions with prosecutors, the police or judges. This only happens occasionally, e.g. when legislative amendments are discussed and then the discussion is usually initiated and hosted by a third party (the Ministry of Justice or academia). (This seems to be a very special understanding of separation of powers.)</p>
<p><b>Regulation of quotas in terms of lawyers who work as legal aid/court appointed lawyers and private lawyers</b></p>	<p>Operating Principles</p>	<p><b>3,36</b></p>	<p>A lawyer from <b>Greece</b> explains that legal aid lawyers can take up more than a specific number of cases per year.</p> <p>A policy maker from <b>Lithuania</b> gives insight that the number of advocates, continuously providing state-guaranteed legal aid is determined by the Minister of Justice. This practice has advantages and disadvantages in his or her opinion; advantages: these advocates only provide legal aid to persons eligible for state guaranteed legal aid; disadvantages: financially services of these advocates cost more for the budget. One member of the ministerial bureaucracy adds that in Lithuania, they have two types of lawyers: 1) the ones, who continuously provide legal aid only to the persons eligible for it; and 2) lawyers who provide secondary legal aid in case of necessity. The quotas in terms of the number of lawyers exist only to the first one, i.e. who provide legal aid continuously. However, there are opinions that they should give up these two types of lawyers and only leave the second one (lawyers providing legal aid in case of necessity), since the overall expenses of their work are lower.</p> <p>One court staff trainer from <b>Portugal</b> explains that the state defines in terms of the number of lawyers who work as legal aid/court appointed lawyers. They work as lawyers on the legal aid and private lawyers.</p> <p>One academic from <b>UK</b> informs that the system is currently run on the basis of criminal contract being bid for and with as many firms bidding receiving a contract. There was a proposal to reduce by almost two-thirds the number but this was not pursued.</p> <p>One judge from <b>Germany</b> is of the opinion that forcing lawyers who make a lot of money to work as court appointed counsels and therefore to earn less, would not be in the interest of the beneficiaries.</p> <p>One police officer from the <b>Netherlands</b> indicates that this in his or her opinion is an item which should be client based (on complaints, surveys etc.) and is not a governmental task.</p> <p>Other respondents see conflicts with the freedom of the profession of lawyers (<b>Bulgaria, Germany, Netherlands</b>).</p> <p>One policy maker from <b>Finland</b> elaborates that they have a dual system: legal Aid is provided by public legal aid attorneys and private attorneys. In most cases, the applicant's first contact is the lawyer of his or her choice, who then draws up the application for legal aid. The recipient of legal aid has a choice of attorney in any court case. The client may choose whether he or</p>

			<p>she wishes to be assisted in judicial proceedings by a public legal aid attorney working at the state legal aid office, and advocate, or licensed attorney. In matters that are not to be before a court (e.g. advice or drawing up of a document), legal aid is given only by legal aid attorneys. In these situations, the recipient of legal aid cannot choose a private attorney, unless there is special reason for it (which might be that the legal aid office has a conflict interest in the matter, is too busy or the matter requires special knowledge).</p>
<p><b>Compile a list of lawyers with different information</b></p>	<p>Choice of Lawyer made by the Beneficiary/an Institution</p>	<p><b>3,26</b></p>	<p>One academic from <b>UK</b> explains that there is a list of criminal defence solicitors but this is not particularly helpful and is not really aimed at assisting the public in finding a criminal legal aid solicitor. Another academic from UK adds that those are lists of directories and they are based on self-report and therefore not objectively verified.</p> <p>One policy maker from <b>Finland</b> indicates that the Finish Bar Association has installed a search engine on their website providing information about lawyers who are members of the Bar (Advocates, Attorneys at law) and associates employed by the Finnish law firms. It is possible to search by choosing one or several search criteria (e.g. expertise, language skills). On another website it is possible to check if a lawyer has a license to act as a licensed legal counsel.</p> <p>One policy maker from <b>Lithuania</b> elucidates that there are two lists of advocates: The ones who provide secondary legal aid continuously and the ones who provide secondary legal aid in the case of necessity.</p> <p>One lawyer from <b>Austria</b> states that there are lists of lawyers containing areas of specialisation and language skills.</p> <p>One police officer from the <b>Netherlands</b> gives insight that the system is there but there is no access to this system for the suspects in police custody.</p>
<p><b>Evaluation of the work of lawyers by client`s satisfactory survey</b></p>	<p>Evaluation</p>	<p><b>2,91</b></p>	<p>One academic from <b>UK</b> declares that in his or her opinion, client satisfactory surveys can be useful, but solicitors can decide which clients are sent the survey, therefore it would be more helpful if the survey could be run independently of defence solicitors.</p> <p>One policy maker from <b>Finland</b> explains that the electronic system for quality assessment functions as follows: The electronic system for quality assessment functions as follows: When a commission is marked as completed in the system, the system automatically generates a self-evaluation questionnaire for every tenth completed commission and sends it to the electronic workflow of the public legal aid attorney. The questionnaire remains open until the attorney has filled it in. Upon marking a commission as completed, the system also sends the client a link to the client questionnaire. Primarily, the link is sent to the email address notified by the client, and secondarily to the client`s mobile phone number. The client questionnaire is kept open for 30 days, after which it is closed automatically if the client has not filled it in. Clients answer to the questionnaire anonymously, and the results are presented as averages. Clients cannot thus be identified based on the answers to the questionnaire. In addition to answering to the questionnaire, clients may also give direct written feedback to their attorneys. This feedback cannot be seen by anyone else except the attorney in question. The attorney may, if he or she so desires, have the system generate a personal report on the assessments concerning the attorney`s completed commissions, if there have been a minimum of ten respondents to the client questionnaire. The system will then compile a report on the average values given in the different areas of assessment and the statements included in them. At national level and at the level of individual legal aid offices and districts, the reports are based on the averages of all responses so that individual attorneys cannot be identified in the results. The evaluation covers also the commissions handled by private attorneys.</p> <p>One member of the ministerial bureaucracy in <b>Lithuania</b> reminds that we must keep in mind that beneficiaries usually do not have legal skills and if</p>



			<p>they lose the case usually they consider that to be the fault of the lawyer; nevertheless he or she thinks the surveys must exist.</p> <p>Similar problems are seen by respondents from <b>Austria, Germany, Bulgaria and Palestine</b>.</p> <p>One academic from <b>UK</b> indicates that the legal aid board carries out periodic client satisfaction surveys. In his or her opinion there is a good case for doing such surveys but such surveys have real limitations as a way of assessing quality. Clients (unless they are repeat offenders) can only assess the empathy, sympathy, attentiveness, responsiveness, promptness, listening and communication skills. They normally cannot tell if the advice they receive is good, bad or indifferent, whether the action taken by the lawyer is good, bad or indifferent, whether the cost of the lawyer is reasonable and whether the time taken by the lawyer is reasonable.</p> <p>One lawyer from <b>Ireland</b> also states that this treats legal services as a consumer product which it is not. What is important in his or her opinion is that there is a system to address grievance and complaints and that is provided in Ireland.</p> <p>One academic from the <b>Netherlands</b> sees the danger of an infringement of the independency of the bar if the government would send these questions.</p>
<p><b>Distribute costs for proceedings due to the principle “initiator pays”</b></p>	<p>Payment and Costs</p>	<p><b>2,54</b></p>	<p>One academic from <b>UK</b> points out that it is not always easy to work out the reasons for delays/adjournments and the defence can often be blamed for problems which originate from the prosecution. If there are poor practices adopted by certain solicitors and/or solicitor firms, this should be addressed.</p> <p>One lawyer from <b>Germany</b> gives insight that he or she has not experienced the use of the regulation which allows to impose the costs of the court hearing to the lawyer who initiated a delay (§ 145 Code of Criminal Procedure) in 23 years of practice.</p> <p>One lawyer from <b>Austria</b> sees the risk that this could provide courts a tool to discipline lawyers engaging into an active defence. One lawyer from the Netherlands finds this a nonsensical rule which is usually used to bully lawyers and he or she is of the opinion that the ethical system in the Netherlands could settle this much better.</p> <p>All in all, there seem to be considerable doubts (and problems of comprehension, many respondents have not got the tool) when it comes to that tool. In Germany, the respondents indicate that there is little use of it and the assessment of the tool that the respondents find it less important.</p>