

4. Кримінологія: підручник / В.В. Голіна, Б.М. Головкін, М.Ю. Валуйська та ін.; за ред. В.В. Голіни, Б.М. Головкіна. Х.: Право, 2014. 440 с.
5. Костенко О.М. Концепція модернізації кримінології у світлі соціального натуралізму (про основи «натуралістичної» кримінології). *Право України*. 2009. № 7. С. 39-42.

REGARDING THE SYSTEM OF LEGAL AID IN SOME COUNTRIES OF THE EUROPEAN UNION

Borovyk Andrii

*Candidate of Juridical Sciences, Docent, Professor
of the Department of Criminal-Legal and Administrative-Legal Disciplines
of Academician Stepan Demianchuk
International University of Economics and Humanities
Rivne, Ukraine*

The United Nations were created after World War II, which goal was to save humanity from the scourge of war, to affirm faith in fundamental human rights, in the dignity and worth of the human person. Then the next documents were adopted: Declaration of Human Rights (1948), International Covenant on Economic, Social and Cultural rights (1966), the International Covenant on Civil and Political Rights (1966) and other important legal acts on human and civil rights, which were universal in nature. Universal international legal acts have set a bar that does not allow states to restrict rights and freedoms, referring to civilizational, national, regional, religious and other features of states. They were recognized by the international community.

However, according to the differences of world civilizations, regional acts on human and civil rights were adopted. Their aim was to combine the universality of human rights with civilizational values and traditions: European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the American Convention on Human Rights (1969), the African Charter on Human and Peoples' Rights (1981), the Islamic Declaration of Human Rights (1990), the CIS Convention on Human Rights and Fundamental Freedoms (1995) [1].

The legal aid system exists in all Member States of the European Union (hereinafter the EU) in both civil and criminal proceedings. If a dispute arises with a company, public figure, employer or other person in the country of residence, and the person does not have sufficient financial resources to sue,

he or she can apply for legal assistance in accordance with existing national rules. The right to legal assistance allows those who do not have sufficient financial resources to cover the costs of litigation or legal representation. The right to legal assistance is enshrined in:

– European Convention on Human Rights (ECHR, 1950) – Article 6 (3) (c) guarantees the right to legal aid if the defendant does not have sufficient funds to pay for legal assistance and to receive free legal assistance when the interests of justice demand it [2];

– Charter of Fundamental Rights of the European Union (2016) – Article 47 which provides that legal assistance is provided to those who do not have sufficient resources [3].

In order to facilitate access to legal aid in civil and commercial matters, the Directive on Legal Aid in Cross-Border Issues (2003) [4] was adopted. It covers pre-trial consultations in order to achieve a settlement of pre-trial proceedings; legal assistance in bringing a matter into court, representation of a lawyer in court and assistance or exemption from court costs. It is necessary to fill in the appropriate legal assistance application form to receive legal aid in cross-border matters. The Directive provides two forms: one for submitting applications for legal aid and one for referring applications for legal aid. They are available in all EU languages [5].

Regarding the legal aid in criminal proceedings, Member States have their own legislation which establishes the means of providing legal assistance in criminal proceedings under their jurisdiction [6]. But their legal aid system is built on the basis of United Nations (UN) legislation. Thus, the UN General Assembly adopted the world's first international document on legal assistance – «UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2012) [7].

They introduce global standards on legal assistance and recommend States to take and strengthen measures to ensure the effective provision of legal aid in the whole world: «Recognizing that legal aid is an important element of a functioning criminal justice system based on the rule of law, including the enjoyment of other rights, the right to a fair trial, and an important safeguard that ensures fundamental justice and public confidence in the criminal justice process, states must guarantee the right to legal aid in their national legal systems at the highest possible level, including, where possible, the constitution»[8].

Taking into account the importance of administrative and legal enforcement of the right to professional legal aid, the Research Institute of the Ministry of Justice and Security of the Netherlands (WODC) has commissioned a comparative study on legal assistance in nine countries: France, Germany, Belgium, England and Wales, Scotland, Ireland, Poland, the Netherlands and Finland. This report includes two issues: 1) How are state-funded legal aid systems organized in these countries? 2) What are the minimum requirements for state-funded legal aid and do they meet the requirements set out in the European Convention on Human Rights (ECHR)

and the case law of the European Court of Human Rights (ECtHR)? Thus, according to this study, England and Wales, Scotland, Ireland, Finland and the Netherlands have centralized legal assistance systems. France, Germany, Belgium and Poland have more decentralized systems. There are independent legal aid councils in Scotland, Ireland and the Netherlands. Legal aid councils in France and Belgium are located in the courts and make decisions on legal assistance issues. In Germany and Poland, courts decide whether or not to provide assistance. Legal aid systems are borne by a central government body, with the exception of Germany, where 16 federal states are responsible for the costs themselves [9].

Legal assistance is usually available, but for certain categories of people. All countries apply financial, importance and complexity criteria to obtain legal aid. As a rule, there is a wide range of state-subsidized services for providing information and advice [6]. All the analyzed countries have many other sources of legal information and advice that are not part of the state legal assistance system. As a rule, (subsidized) services of lawyers and intermediaries (with low payment) are usually offered for negotiations and interaction with the other party. Procedural assistance to a lawyer during trials in courts and tribunals is also available everywhere. In France, Germany, the United Kingdom, Scotland and Finland, it is essential to use other means of aid before obtaining legal assistance. Litigation insurance is best known in Germany, followed by the Netherlands, Belgium, France, Finland and Poland [9].

The analysis showed that legal aid is only one way to guarantee access to justice. The ECHR is open to various alternatives, such as simplification of legal assistance procedures, e-court, mediation, etc. In addition, the right to free legal aid differs in the amount of its provision depending on the type of proceedings. Thus, the right to legal aid in civil proceedings is not absolute and may be subject to legal and proportionate restrictions. The determining factors are the interests of the individual, the complexity of the procedures and the importance of the problems, as well as the difficult financial situation of the applicant.

References:

1. Prava cheloveka. Bolshaya rossiyskaya entsiklopediya, 2020. URL: <https://bigenc.ru/law/text/3164669>.
2. Convention for the Protection of Human Rights and Fundamental Freedoms Rome, 4.XI.1950. URL: https://www.echr.coe.int/Documents/Convention_ENG.pdf.
3. Charter of Fundamental Rights, 2016. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:133501>.
4. Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. URL: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32003L0008>.

5. Legal Aid, 2020. URL: https://e-justice.europa.eu/content_legal_aid-37141-en.do#:~:text=The%20right%20to%20legal%20aid%20is%20enshrined%20by%3A,interest%20of%20justice%20so%20requires..
6. Criminal Legal Aid. Citizens information, 2020.
7. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice System, 3 October 2012, UN Doc. A/C.3/67/L.6. URL: http://www.uanet.org/sites/default/files/RES_GA_UN_121003_EN.pdf.
8. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice System, 3 October 2012, UN Doc. A/C.3/67/L.6. URL: http://www.uanet.org/sites/default/files/RES_GA_UN_121003_EN.pdf.
9. Barendrecht, Maurits, Laura Kistemaker, Henk Jan Scholten, Ruby Schrader, Marzena Wrzesinska. Legal Aid in Europe: Nine Different Ways to Guarantee Access to Justice? Ministerie van Veiligheid en Justitie, 2014. URL: <https://www.hiil.org/wp-content/uploads/2018/09/Legal-Aid-in-Europe-Full-Report.pdf>.

**СУЧАСНІ ХАРАКТЕРНІ ОСОБЛИВОСТІ
АДМІНІСТРАТИВНО-ЮРИСДИКЦІЙНОЇ ДІЯЛЬНОСТІ
НАЦІОНАЛЬНОЇ ПОЛІЦІЇ ЩОДО ПРОТИДІЇ
ГЕНДЕРНО-ОБУМОВЛЕНОМУ НАСИЛЬСТВУ**

Друзенко А. В.

консультантка з розробки гендерної політики

Офісу віцепрем'єрки

з питань європейської та євроатлантичної інтеграції

Фонду ООН у галузі народонаселення в Україні

м. Київ, Україна

Чеховська А. М.

студентка 2 курсу юридичного факультету

Міжнародного економіко-гуманітарного університету

імені академіка Степана Дем'янчука

м. Рівне, Україна

Адміністративно-юрисдикційну діяльність поліції науковці трактують як здійснювану в чітко регламентованій формі суспільних правовідносин, які виникають підчас здійснення підрозділами