

## Conclusions of the summary report on the courts' case-law on legal aid

The summary report of the jurisprudence-analysing working group set up to examine the courts' case-law on legal aid concluded that a new, separate act of law would be needed to be adopted to replace the relevant legislation in force that includes lower level pieces of legislation with divergent definitions and sets of conditions. The new act of law should regulate the types of legal aid, the conditions necessary for claiming such aid and the claim forms to be completed in a uniform manner in respect of civil court proceedings and other types of proceedings defined by law. The new regulation should replace the different rules on the conditions of access and harmonise the parties' eligibility to legal aid in line with their various kinds. In fact, legal aid serves as an essential financial support for parties lacking the necessary resources to turn to the court, and the parties' eligibility to legal aid has to be assessed first. The degree of the parties' lack of financial means determines which type of legal aid – partial or complete, provisional or definitive, *i.e.* advancement or bearing of costs – may be granted to them by the State. It would be vital to ensure that the new rules provide, to the largest possible extent, for the bearing of the costs of legal aid by the losing party at the end of the proceedings. The above aims necessitate the recognition of the right to exemption from the advance payment of costs, a sub-category of partial exemption from court-related costs as a separate form of legal aid. Exemption from court-related costs, including the whole or a part of court fees as well as experts' fees advanced by the State should be granted only to those parties who would not be able to reimburse these costs in case of their unsuccessful litigation, and whose lack of financial means would otherwise prevent them from exercising their right of access to a court. Defendants may also be entitled to such exemption for the above reasons. If no full exemption from court-related costs is granted, the parties may remain entitled to an exemption from the advance payment of costs. In determining the personal scope of the new rules on legal aid, account should be taken of international trends and the relevant provisions of the Act on the Provision of Legal Assistance, which somewhat reflect those trends by allowing, on request, the grant of exemption from the advance payment of costs to a limited number of organisations as well.