



Northern Ireland  
Assembly

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# Legal Aid: A Country Comparison

## Introduction

- 1) The level of spending in Northern Ireland on legal aid has been identified as a key issue by the Minister of Justice and the Assembly's Justice Committee. This paper, which is based upon two significant research publications, presents comparative information on legal aid spending across a number of jurisdictions.
- 2) Part 1 of this paper is based upon the work of the European Commission for the Efficiency of Justice (CEPEJ). The objectives of the CEPEJ are *'the improvement of the efficiency and functioning of justice in the member States; and the development of the implementation of the instruments adopted by the Council of Europe to this end'*. The CEPEJ undertakes regular evaluations of the efficiency and equality of judicial systems amongst the Council of Europe's member states. The latest CEPEJ report, based upon 2006 data from 45 states, was published in October 2008.<sup>1</sup> The next cycle of evaluation by the CEPEJ has already started and it is anticipated that a report, based on figures from 2008, will be published during autumn 2010.

<sup>1</sup> European judicial systems Edition 2008 (data 2006): Efficiency and quality of justice  
European Commission for the Efficiency of Justice (CEPEJ)  
[https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2008\)Evaluation&Language=lanEnglish&Ver=original&Site=DGHL-CEPEJ&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2008)Evaluation&Language=lanEnglish&Ver=original&Site=DGHL-CEPEJ&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6)

- 3) Part 2 of this paper draws on a recent Ministry of Justice publication entitled '*International comparison of publicly funded legal services and justice systems*'.<sup>2</sup> The report, published in October 2009, examined legal aid as it operated in a number of countries and set out to explore a number of hypotheses which would explain different levels of spending. In addition to England and Wales, the report covered not only other European states such as France, Germany, Netherlands, and Sweden but also Australia, Canada and New Zealand.
- 4) Part 3 of this paper will outline the conclusions from the Ministry of Justice study in terms of factors affecting legal aid costs for England and Wales, these factors may be broadly the same for Northern Ireland. The drivers involved in increasing the cost of legal aid in England and Wales are briefly outlined. Again, may be as applicable to Northern Ireland given the similar costs and legal system.
- 5) Part 4 of this paper examines various developments that countries from across the world have enacted to help reduce their expenditure on legal aid. These measures have been both financial as well as developing alternative mechanisms to having court proceedings.
- 6) The paper concludes by examining a recent speech by the Minister of Justice where he outlines proposals for the future of public legal services in Northern Ireland.

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<sup>2</sup> Ministry of Justice – 'International comparison of publicly funded legal services and justice systems' <http://www.justice.gov.uk/comparison-public-fund-legal-services-justice-systems.pdf>

## Part 1

- 7) This part of the paper examines the cost of providing legal aid in Northern Ireland, England & Wales, the Republic of Ireland, France, the Netherlands and Romania. These countries range from the most to the least costly in terms of legal aid. France, the Netherlands and Romania adopt a civil law system. The tables below present information regarding the cost of legal aid provision in these six countries.

**Table 1 Legal aid cases and the average amount of legal aid spent per case in 2006**

Country	Total no. of cases granted with legal aid per 10,000 inhabitants	No. of criminal cases granted with legal aid per 10,000	No. of other than criminal cases granted with legal aid per 10,000	Average amount of legal aid allocated per case	Average amount of legal aid allocated per criminal case	Average amount of legal aid allocated per other than criminal case
France	143	62	82	335 Euro	254 Euro	396 Euro
Ireland	120	98	22	1,245 Euro	1,003 Euro	2,305 Euro
Netherlands	254	94	160	831 Euro	1,024 Euro	718 Euro
England & Wales	495	297	198	1,136 Euro	977 Euro	760 Euro
Northern Ireland	445	189	255	1,237 Euro	N/A	N/A
Romania	125	121	4	22 Euro	23 Euro	None

- 8) Table 1 above highlights the high number of cases in both England and Wales and Northern Ireland that are granted legal aid. The tables show that in England and Wales the greatest proportion of cases granted legal aid are for criminal matters whilst in Northern Ireland it is for cases other than criminal matters. The table also indicates that the three common law systems all have broadly the same average amount of legal aid allocated per case.
- 9) In relation to the other countries chosen – France, the Netherlands and Romania - this was because these countries represented all ends of the scale in terms of the cost of legal aid provision amongst other EU countries. The Netherlands being representative of

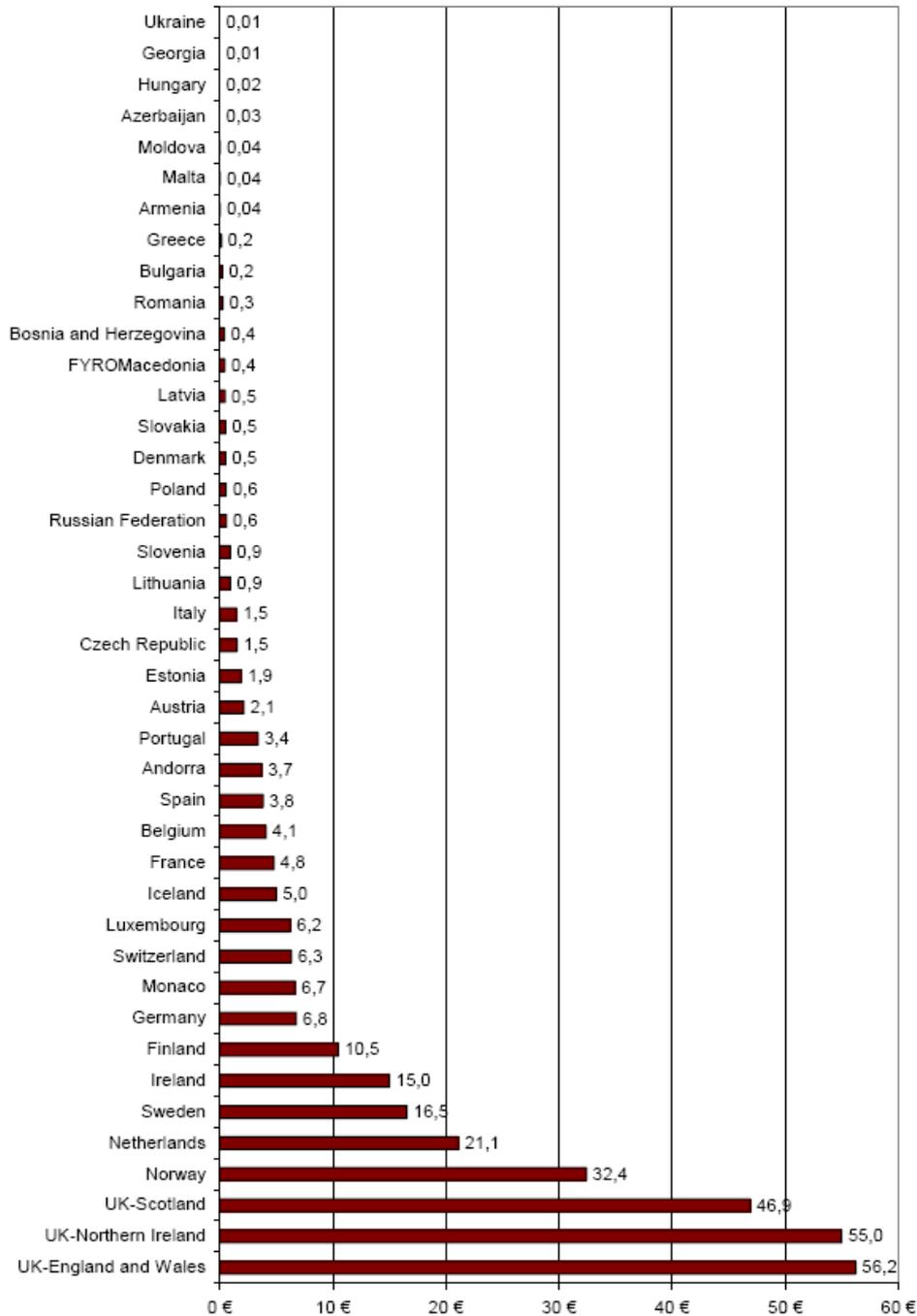
the higher end, France a mid-range jurisdiction and Romania at the bottom end of the scale. Ireland was chosen due to having a similar legal system and given its close proximity. This is a reflection of the extreme range of spending in EU countries that is prevalent in relation to legal aid costs.

**Table 2 showing Annual public budget allocated to legal aid per inhabitant in 2006, in Euro**

Country	Amount per inhabitant
France	4.8 Euros
Ireland	15.0 Euros
Netherlands	21.1 Euros
England & Wales	56.2 Euros
Northern Ireland	55.0 Euros
Romania	0.3 Euros

**10)** Table 2 clearly illustrates that the legal aid spend per inhabitant is manifestly higher in England and Wales and Northern Ireland than either of the other jurisdictions. Indeed it's almost three times higher than the next highest spender the Netherlands. This information shows no pattern between common law and civil law systems, with Ireland a common law system ranked below the Netherlands which is civil law system. Again France (mid), the Netherlands (high) and Romania (low) represent all ends of the legal aid costs scale within EU countries.

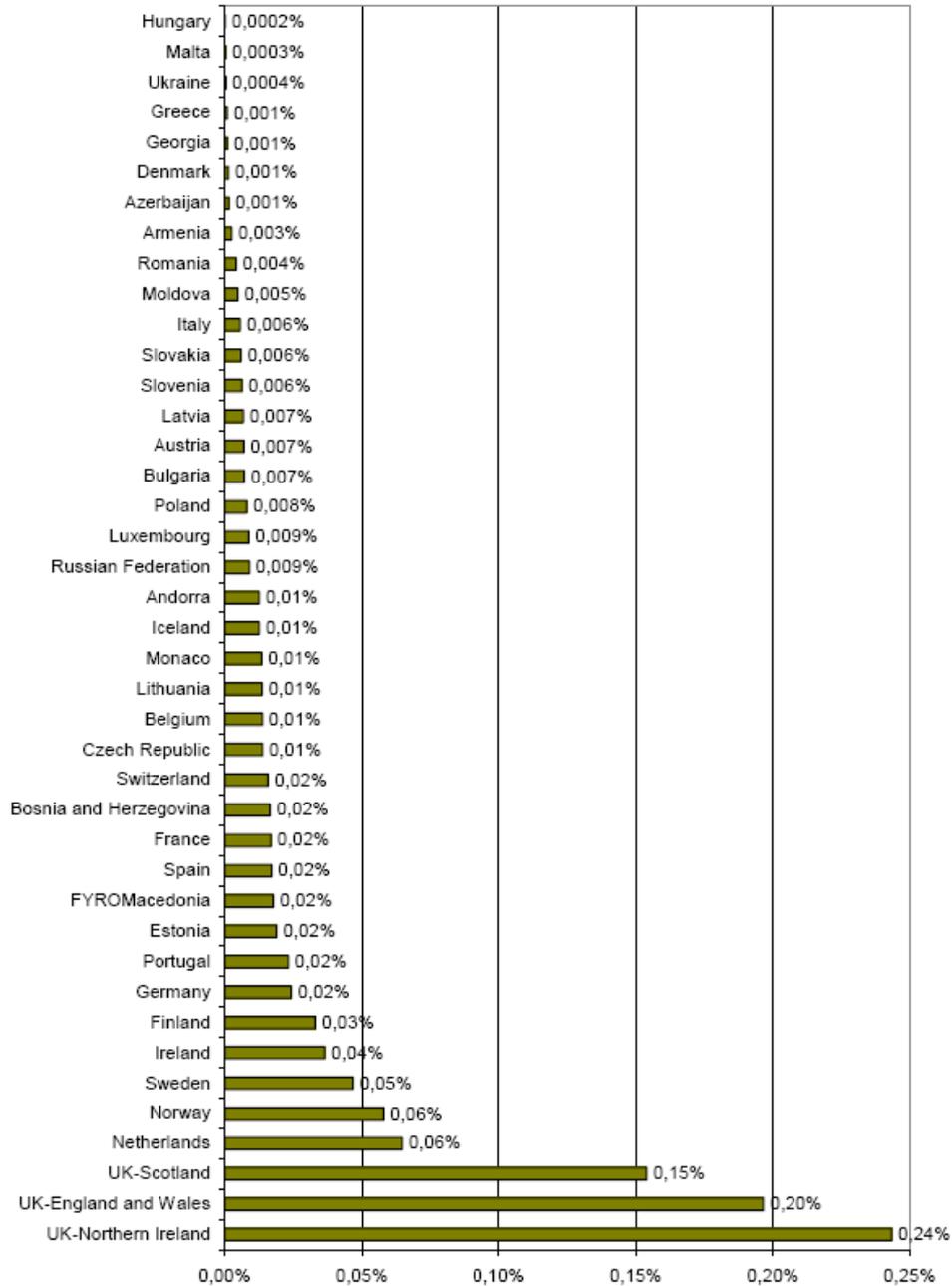
Figure 9. Annual public budget allocated to legal aid per inhabitant in 2006, in € (Q13)



11) Figure 9 above shows the high cost of all individual UK jurisdictions in terms of annual public budget allocated to legal aid per inhabitant. As was the case in 2004, a relatively high budget for legal aid is spent in: Norway, UK-Scotland, UK-Northern Ireland and UK

England and Wales. A relatively high amount can also be seen in the Netherlands, Sweden, Ireland and Finland.<sup>3</sup>

Figure 10. Annual public budget allocated to legal aid per inhabitant as a percentage of per capita GDP in 2006



<sup>3</sup> European judicial systems Edition 2008 (data 2006): Efficiency and quality of justice European Commission for the Efficiency of Justice (CEPEJ) [https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2008\)Evaluation&Language=lanEnglish&Ver=original&Site=DGHL-CEPEJ&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2008)Evaluation&Language=lanEnglish&Ver=original&Site=DGHL-CEPEJ&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6)

**12)** Figure 10 highlights that in terms of annual public budget allocated per inhabitant as a % of Gross Domestic Product (GDP) Northern Ireland spends the most followed by the other UK jurisdictions.<sup>4</sup>

## Part 2

**13)** This part of the paper will outline the cost of legal aid in three other common law systems namely Australia, Canada and New Zealand (ANZAC). For these jurisdictions the data available limits comparisons to the cost per inhabitant for legal aid. The figures for France and the Netherlands are also included to illustrate the comparative costs between civil and common law legal systems.

**14)** In spite of the data limitations the Ministry of Justice publication '*International comparison of publicly funded legal services and justice systems*' does however identify potential cost drivers which will be assessed. These are identified in Part 3 of the paper.

**Table 3 Annual public budget allocated to legal aid per inhabitant in 2004, in Euro**

Country	Amount per inhabitant
Australia	13.05 Euros
Canada	11.84 Euros
New Zealand	14.00 Euros
France	4.8 Euros (based on 2006 figures)
Netherlands	21.1 Euros (based on 2006 figures)

**15)** Table 3 indicates that the legal aid cost per inhabitant in each of the ANZAC countries is broadly similar. In relation to other countries considered the amounts are more equivalent to Ireland (see Table 2 above). This indicates that the costs in England and Wales and Northern Ireland are greater than any other countries both in common and civil law jurisdictions. Table 3 illustrates that France falls below the range in ANZAC countries whilst the Netherlands falls above the range. More information regarding legal aid provisions in these three jurisdictions is attached at Annex A.

<sup>4</sup> European judicial systems Edition 2008 (data 2006): Efficiency and quality of justice European Commission for the Efficiency of Justice (CEPEJ)  
[https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2008\)Evaluation&Language=lanEnglish&Ver=original&Site=DGHL-CEPEJ&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2008)Evaluation&Language=lanEnglish&Ver=original&Site=DGHL-CEPEJ&BackColorInternet=eff2fa&BackColorIntranet=eff2fa&BackColorLogged=c1cbe6)

### Part 3

**16)** This part of the paper highlights the findings, based on comparative data, from a recent study published by the Ministry of Justice. As the authors of the study note, however, *'making comparisons of international justice systems was complex due to significant differences in the methodology and reporting of data associated with justice systems'*.<sup>5</sup> Whilst the authors, therefore warned that all comparisons should be treated with care, they concluded amongst other things that:<sup>6</sup>

- By international standards spending in per capita terms was high in England and Wales;
- The study found spending in England and Wales to be unusually high relative also to non-EU countries including Australia, New Zealand and Canada;
- The number of cases supported per capita in England and Wales was higher than for any of the other countries in respect of both criminal and non-criminal legal aid;
- Spending per case supported was higher in England and Wales than all other study countries for both types of work with the sole exception of criminal cases in the Netherlands;
- The combined effect of higher case volumes and higher average cost per case appeared to mark expenditure per head much higher in England and Wales than elsewhere;
- Although income ceilings on eligibility for criminal legal aid were high in England and Wales. They were not significantly out of line with those of other high income EU countries (except France) but were much higher than levels in non-EU countries;
- Spending on running the courts in England and Wales was much lower than in comparable countries. This might to some degree be offsetting higher levels of legal aid spending;
- Comparison of legal aid spending between EU and Commonwealth countries failed to show any evidence of an 'Anglo-Saxon' or 'common law' effect producing higher spending per capita on legal aid; and
- There was some evidence that criminal cases were handled differently in EU countries other than England and Wales. This might give rise to fewer court hearings and lower demand for legal aid per case in criminal matters;

**17)** The authors of the study concluded that there seemed to be no escaping the observation that legal aid in England and Wales was significantly more costly than elsewhere. The

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<sup>5</sup> Ministry of Justice – 'International comparison of publicly funded legal services and justice systems' <http://www.justice.gov.uk/comparison-public-fund-legal-services-justice-systems.pdf>

<sup>6</sup> See above

study identified a number of factors which they suggested contributed to this situation, particularly:<sup>7</sup>

- High volume of cases supported;
- High expenditure per case;
- High income ceiling on eligibility;
- Wide (if narrower than previously) coverage of areas of law; and
- The adversarial legal tradition of a common law country.

**18)** The Ministry of Justice study did however also note that:<sup>8</sup>

Although legal aid costs were unusually high in England and Wales the same did not apply to the overall costs of the Justice System. The CEPEJ Report data suggested that spending on courts and public prosecution were comparatively low in England and Wales. This would imply that looking at legal aid expenditure in isolation risked missing important structural differences between justice systems. But it could also be the case that this was an artefact of technical issues related to data collection.

## Part 4

**19)** This part of the paper will examine areas identified in the second study where developments are being undertaken to improve the cost-effectiveness and delivery of legal aid. Five areas to reduce legal aid costs will be outlined and developments by various countries will be analysed as per each area:

- **Income ceilings**

In France measures and policies used for keeping legal aid costs lower included low income ceilings which were approximately half of the amount in England and Wales.<sup>9</sup> Australia had also introduced low income ceilings in order to help control its legal aid costs.<sup>10</sup>

- **Limiting access**

The legal aid model in Sweden means that there is no legal aid for family matters. Furthermore in Sweden *‘there was an expectation that a recipient will contribute towards cost. There was an upper limit of 100 hours on the amount of lawyer time that would be covered except in exceptional circumstances’*.<sup>11</sup> Australia has

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<sup>7</sup> Ministry of Justice – ‘International comparison of publicly funded legal services and justice systems’ <http://www.justice.gov.uk/comparison-public-fund-legal-services-justice-systems.pdf>

<sup>8</sup> See above

<sup>9</sup> See above

<sup>10</sup> See above

<sup>11</sup> See above

attempted to limit access by making legal aid available only for serious cases and in relation to civil cases *'there was a tight legal merits test applied in civil matters based on the prospects of success and whether a prudent litigant (with money) would spend their own resources on pursuing the matter'*.<sup>12</sup> It would appear that the legal aid model in Italy is more restrictive in that only 21 cases per 10,000 inhabitants are granted legal aid; compared to 495 cases in England & Wales and 445 cases in Northern Ireland.<sup>13</sup>

- **Alternatives to court proceedings and support mechanisms for this**

In Sweden in cases of marital separation mediation is provided as a free alternative and moreover *'it had been reported that 90% of parents settled disputes over custody and access either on their own or through mediation or counselling'*.<sup>14</sup>

- **Pro-bono support**

In New Zealand out of 3,000 listed legal aid providers 13 were employed by community law centres.<sup>15</sup> Furthermore similar to New Zealand above, in Australia *'a network of around 200 Community Legal Centres provided free referral, advice and assistance services to around 350,000 clients per annum. About 20% were entirely voluntary while the remainder were funded by a variety of government and charitable organisations'*.<sup>16</sup> In attempts to cut legal aid costs *'other jurisdictions had developed a tradition of private sector lawyers providing some of their services on a 'pro bono' basis. This might take the form of a 'requirement' on lawyers to do a minimum number of hours per annum at reduced or zero fees'*.<sup>17</sup>

Canada also had developed a system of community based law centres with its application varying across different provinces, *'Dalhousie (Nova Scotia) had a community-based legal aid clinic which provided free legal services to individuals with incomes below the national poverty line...In Alberta, for example, some services were free but any requiring full representation by a lawyer were not'*.<sup>18</sup>

- **Contribution to costs**

Although not picked as country to analyse, due to its similar results to France and the Netherlands, the German system provides some legal aid in the form of a loan.<sup>19</sup>

<sup>12</sup> Ministry of Justice – 'International comparison of publicly funded legal services and justice systems' <http://www.justice.gov.uk/comparison-public-fund-legal-services-justice-systems.pdf>

<sup>13</sup> See above

<sup>14</sup> See above

<sup>15</sup> See above

<sup>16</sup> See above

<sup>17</sup> See above

<sup>18</sup> See above

<sup>19</sup> See above

## Conclusion

**20)** In international terms Northern Ireland's costs are high. The CEPEJ study contained data which showed that. The Ministry of Justice study did not contain information on Northern Ireland but focused on England and Wales which the CEPEJ study showed to be overall at a similar level to Northern Ireland. The Ministry of Justice study concluded that *'legal aid in England and Wales was significantly more costly'*<sup>20</sup> than elsewhere. The same, therefore, could be said about Northern Ireland.

**21)** The Minister of Justice in a recent speech has outlined his vision for public legal services in Northern Ireland as:<sup>21</sup>

- One which helps more people solve their legal problems;
- Which put much greater emphasis on finding solutions to problems outside court, and less emphasis on fighting cases inside court – with all the expense and stress this gives rise to; and
- Which provides a much wider choice in the sources of legal help available to those in need. Instead of simply paying people to go to law, it should also be possible to *"bring the law to people"*<sup>22</sup> through advice centres and legal clinics. You only have to look at the excellent work being done by Citizens Advice, Advice NI and the Law Centre to see what I have in mind.

**22)** The Minister of Justice indicated his ambition *'to bring forward a range of reforms to the legal aid system, with the objective of aligning legal aid expenditure with the available budget'*.<sup>23</sup>

**23)** In the content of the speech the Minister of Justice outlined that the right community alternatives must be available for those offenders for whom prison is not necessary. The Minister made clear his intention to institute a review into alternatives to custody to ensure the right range of community sentences are available and that they are used in the right way.<sup>24</sup> This could impact on legal aid costs by reducing the need to instigate court proceedings, with its direct savings on solicitor/barrister fees and other associated court costs.

**24)** The Minister of Justice also outlined the heavy impact of *'Very High Cost Criminal Cases – in which less than 1% of the cases consume almost 30% of the total legal aid budget'*.<sup>25</sup> The Minister of Justice has called this recent phenomenon unsustainable and has outlined his determination to bring it to an end.

<sup>20</sup> See above

<sup>21</sup> Speech by David Ford, Minister of Justice, on 7<sup>th</sup> June 2010

[http://www.dojni.gov.uk/index/media-centre/minister\\_of\\_justice\\_speech\\_07.06.10.pdf](http://www.dojni.gov.uk/index/media-centre/minister_of_justice_speech_07.06.10.pdf)

<sup>22</sup> Speech by David Ford, Minister of Justice, on 7<sup>th</sup> June 2010

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<sup>23</sup> See above

<sup>24</sup> See above

<sup>25</sup> See above

- 25)** Plans outlined by the Minister of Justice to *'bring law to the people through advice centres and legal clinics'*<sup>26</sup> could play a role in reducing the costs incurred by legal aid provision. The Minister highlighted the good work already being carried out by the Citizens Advice, Advice NI and the Law Centre in the provision of legal advice.
- 26)** The Ministry of Justice study concluded that *'the scope for addressing the high legal aid spending levels seemed somewhat limited. There was an element of "path-dependence" that would inhibit a major overnight shift to a lower spending trajectory'*.<sup>27</sup> This suggests a real challenge.
- 27)** Now with the devolution of policing and justice complete the Minister of Justice has outlined that it may afford Northern Ireland the opportunity to tailor its legal aid system, which has over the years developed in tandem with England and Wales, to its own needs.

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<sup>26</sup> See above

<sup>27</sup> Ministry of Justice – 'International comparison of publicly funded legal services and justice systems' <http://www.justice.gov.uk/comparison-public-fund-legal-services-justice-systems.pdf>

## Annex 1

This provides further information on legal aid for England and Wales, France, the Netherlands, Australia, New Zealand and Canada.

### England and Wales

#### Funding of access

Legal aid was available subject to both a means test and a legal merits test. It covers advice, assistance and representation. It was primarily a judicare system in which legal services were provided by private legal practitioners via procurement arrangements agreed between practitioners and the government.

Legal Expenses Insurance was available to considerable numbers of individuals but was normally purchased as an option along with household or motor policies. Advice, including limited legal advice, was available from Citizens' Advice Bureau which were part-funded by the legal aid budget.

#### Spending on access to justice

Total spending (2004)	€3,070 m.
Spending per capita	€57.87

#### Scope, eligibility and ease of access

Legal aid was subject to both a means test and a legal merits test. The ceiling was gross income during the last month of £2,435 and an upper limit on capital of £8,000 excluding owner-occupied property.

#### Public expenditure and access to justice

Annual budget allocation to legal aid per capita as % of per capita GDP: 0.235%

#### Numbers receiving assistance and cost per act of assistance

	2004-05:	2006-07:
<b>Total spend (£m.)</b>		
CLS (civil & family / non-criminal)	-	£808.9
CDS (criminal)	-	£1,174.4
<b>Cases/acts supported</b>		
Criminal	1,587,000 cases	1,594,000 acts
Non-criminal	856,000 cases	1,064,000 acts
<b>Cases supported per 10,000 inhabitants:</b>		
Criminal	298	-
Non-criminal	161	-
<b>Cost per case/act supported:</b>		
Criminal	£751 per case	£734.7
Non-criminal / civil & family	£988 per case	£760.1

**Role of social and cultural factors**

Common law country; relatively high crime rate (although recorded crime and victimisation rates both falling); relatively high divorce rate; public health, education and other services were widely used and often available at zero user cost. Legal aid was introduced originally as part of the post World War 2 reforms.

**Background data on the country**

Population:	53.046 m.
Number of divorces:	166,536
Divorces per 10,000 inhabitants	31.39
GDP per capita (€) CEPEJ Table 1	€24,579
GDP per capita (\$US, 2003, PPP)	\$US29,800
Crime rate per 10,000 inhabitants:	1,112.1
Cases brought to criminal court per 100,000 inhabitants:	3,604

**France****Funding of access**

Access to legal aid only for those of limited means.

**Spending on access to justice**

Total spending (2004)	€124.044m.
Spending per capita	€4.68

**Scope, eligibility and ease of use**

Legal aid proper was available for court proceedings and out-of-court settlements. Aid towards advocates' fees was available in criminal proceedings that were an alternative to prosecution and for those held by the police for questioning and those held in prison. Legal aid entitles the recipient to free legal advice and to exemption from court fees.

The upper limit on monthly resources for a single person to receive aid was the very modest sum of €830 for full legal aid and €1,244 for partial aid: higher with dependents.

Aid was available to French citizens, citizens of the EU and foreign nationals habitually residing lawfully in France. There was a standard kind of legal merits test.

Application forms were available from the Regional Court or the District Court for the place of residence. Completed forms can be sent to the LA Bureau for the area of residence.

**Public expenditure and access to justice**

Annual budget allocation to legal aid per capita as % of per capita GDP: 0.018%

## Numbers receiving assistance and cost per act of assistance

<b>Cases supported</b>	
Criminal	354,411
Non-criminal	
<b>Cases supported per 10,000 inhabitants:</b>	478,766
Criminal	57
Non-criminal	77
<b>Cost per case/act supported:</b>	
Criminal	€350
Non-criminal / civil & family	€350

### Role of social and cultural factors

Legal aid had been available for 150 years. It relied on private sector service suppliers. Expenditure by the state on it was very low. Most of the burden was shouldered by the legal profession based on a duty of solidarity and as a quid pro quo for their monopoly position. Catholicism was an important part of the French context as was the system of local government.

### Background data on the country

Population:	62.177m.
Number of divorces:	125,175
Divorces per 10,000 inhabitants	20.13
GDP per capita (€) CEPEJ table 1	26,511
Crime rate per 10,000 inhabitants:	-

## Netherlands

### Funding of access

Legal aid was available to those unable to afford legal services.

### Spending on access to justice

Total spending	€378.358 m.
Spending per capita	€23.22

### Scope, eligibility and ease of use

Access to legal aid was available through LA bureaux located in all major Dutch cities, or through lawyers or through the legal aid board.

For 2002 the maximum disposable income after tax at which individuals could get legal aid was €1,424 for single persons and €2,000 for couples. There was an assets limit of €9,100. Special guarantees applied in the case of criminal law. Evidence was required to support applications.

Defendants in criminal cases were eligible for subsidised legal aid if: the crime committed had a maximum prison sentence of four years or more; they were remanded in custody or they had a low income. Criminal defence was available for all who were arrested (or deprived of personal freedom) and all who were charged before court.

Recipients of legal aid had to pay an income-related fee, the minimum being €61 (in 2002) and the highest €532. In criminal cases fees were not generally payable. There was a legal merits test of the usual sort.

Around 10% of the 11,000 Dutch Advocates regularly did legal aid work (had more than 100 clients per year)

### Public expenditure and access to justice

<b>Cases supported</b>	
Criminal	128,707
Non-criminal	213,425
<b>Cases supported per 10,000 inhabitants:</b>	
Criminal	79.0
Non-criminal	
<b>Cost per case/act supported:</b>	
	131
Criminal	€1,118
Non-criminal / civil & family	€1,092

### Role of social and cultural factors

Legal aid was well established and there was an extensive support network enabling individuals to get advice and assistance. The country was said to have a litigation avoidance infrastructure. But there was an emphasis on seeking professional help for legal problems unlike the encouragement of self-reliance as in countries such as the US.

### Background data on the country

Population:	16.292m.
Number of divorces:	31,479
Divorces per 10,000 inhabitants	19.32
GDP per capita (€) CEPEJ Table 1	29,993
Crime rate per 10,000 inhabitants:	873.4
Cases brought to criminal court per 100,000 inhabitants:	688

### Australia

#### Funding of access

Legal aid was available from the separate organisation or commission in each of the eight states. Funding was derived in part from the state government, part from the federal government and part from recovery of costs. Legal aid organisations themselves employed substantial numbers of in-house legal staff (who handled 54% of criminal cases, 28% of

family cases and 43% of civil cases). An incentive for individuals to make use of this was that the minimum contribution to costs was \$30 for a private lawyer compared with \$20 for the in-house option.

### Spending on access to justice

Total spending:	\$AUS397.161m. (c.£172.3m.)
Spending per capita:	£9.11 at December 04 exchange rates

#### Scope, eligibility and ease of use

Free legal advice available to anyone in the early stages of cases via telephone or from duty solicitors in courts. One key feature was that courts had more discretion to restrict the range of cases in which aid was available. Applicants had to demonstrate that their situation 'justifies spending scarce public funds'. Both state and federal governments issued 'guidelines' on priorities. This included criminal offences for which a term of imprisonment could exceed 14 years, so a great deal tougher than any EU schemes. Standard type of legal merits test applied.

### Public expenditure and access to justice

Legal aid expenditure 06-07	\$AUS456.131m.
Total public expenditure 06 (IMF data)	\$AUS250,475m.
Legal aid expenditure as % of total public expenditure:	0.18%

### Numbers receiving assistance and cost per act of assistance

Acts of assistance (04-05):	668,868
Spend per act of assistance	£257.6
Civil & family representation	53,007
Civil & family legal help	180,152
Advice & assistance criminal	80,905
Representation in criminal courts:	105,606
Average cost per case (representation):	\$AUS2,454 (c. £1,189)
Range across states in cost per case	£676 (Tasmania) to £1,919 in West Australia

#### Role of social and cultural factors

The common law system, as developed in the United Kingdom, formed the basis of Australian jurisprudence. The Australian Constitution of 1901 established a federal system of government, under which powers were distributed between the federal government and the states. Each state had its own legal aid commission and provision varied across states. The federal government funded a network of nine organisations across Australia that provided legal aid services specifically to Indigenous Australians.

## Background data on the country

Population:	20.140m.
Number of divorces:	53,145
Divorces per 10,000 inhabitants	26.39
GDP per capita (€) CEPEJ table 1	26,511
Crime rate per 10,000 inhabitants:	-
Cases brought to criminal court per 100,000 inhabitants:	-

## New Zealand

### Funding of access

Legal aid was administered by the Legal Services Agency, a Crown entity established under section 91 of the Legal Services Act in 2000. The Agency had a CEO and nearly 250 staff, 12 regional offices. Two Public Defence Service pilot offices have been established in Auckland: LSA NZ (2007).

Legal aid was demand-driven, with the budget set on the basis of forecast growth. The system was basically a 'judicare' system under which the LSA granted aid to fund eligible people using private practitioners for approved services. There were about 3,000 listed providers. All were in private practice except 18 PDS lawyers and 13 employed by community law centres. For civil matters, a citizen chose a legal provider who helped them apply for a grant of legal aid. For criminal legal aid, a person might choose a listed provider or LSA might allocate a provider.

There was a Memorandum of Understanding between the Ministry of Justice and the Legal Services Agency specifying outputs and performance measures.

### Spending on access to justice

Year	Total Spend
03-04	\$NZ84.035 m.
04-05	\$NZ92.895 m.
05-06	\$NZ96.046 m.
07-08	\$NZ112.037m.

### Scope, eligibility and ease of use

Legal aid was available for advice, assistance and representation in both civil and criminal matters. Legal merits test and means tests both applied. When making a grant the LSA usually specified a maximum in terms of a dollar amount or number of hours or length of time. Permission was needed to exceed these maxima. Policy guidelines were used to ensure consistency in the amounts granted.

Eligibility rules were changed from 1 March 2007. They referred to both income and assets. For a single person the limits were gross annual income of \$NZ 19,471 during previous 12 months: this was the equivalent of around £7,400, well below the equivalent figure for E&W.

## Public expenditure and access to justice

Legal aid expenditure 05-06:	\$NZ96.046m.
GDP 05-06:	\$NZ155,398m.
Legal aid expenditure as % of GDP:	0.06%

### Role of social and cultural factors

New Zealand had pragmatic and populist governments. It had a mix of European and Asian/Pacific influences. In social policy terms it had at different times been pioneering and very conservative. It was a small country. It had a unified administration for legal aid.

## Background data on the country

Population (March 2006):	4.03m.
Number of divorces:	10,491
Divorces per 10,000 inhabitants	25.66
GDP per capita (2004)	€18,466
GDP per capita (2003, \$US, PPP)	\$US23,200
Exchange rate, June 04:	\$NZ1 = €0.519 = £0.348
Crime rate per 10,000 inhabitants:	717.3
Cases brought to criminal court per 100,000 inhabitants:	3,164

## Canada

### Funding of access

Legal aid was available for low-income individuals. It was administered by state-level agencies funded by a mix of federal and state revenue.

### Spending on access to justice

Total spending	\$CAN599.23m.
Spending per capita	€11.84

### Scope, eligibility and ease of use

Services were provided through area offices and community and specialised legal clinics. There were duty counsel services available at courthouses. Schemes did however differ between states. Even the legal system varied between states, Quebec relying on a continental kind of system.

In British Columbia, for example, the net income ceiling for a two-person household to qualify for legal aid was \$1,950. There were also limits on the value of assets in 5 categories including cars, boats and property.

In Manitoba legal aid could include people who were working. For free legal aid the income limit for a one person household was \$14,000 gross income per annum.

Corresponding ceilings were \$16,000 for partial pay-back legal aid and \$23,000 for full pay-back. These latter schemes were based on paying back on a monthly plan, so were loan-based.

Criminal legal aid in Manitoba could be granted legal aid if you were charged with an indictable offence and were financially eligible, likewise for a summary offence for which you can be imprisoned or deported.

Civil litigation matters were excluded from legal aid.

### Public expenditure and access to justice

Legal aid expenditure per capita	20.19
GDP per capita 06-07: \$CAN	44,333
Legal aid expenditure as % of GDP:	0.046%

### Numbers receiving assistance and cost per act of assistance

<b>Cases supported</b>	
Criminal	246,280
Non-criminal	222,422
<b>Cases supported per 10,000 inhabitants:</b>	
Criminal	79.3
Non-criminal	71.64
<b>Cost per case/act supported:</b>	
Criminal	\$CAN1,264 approx. €776
Non-criminal / civil & family	\$CAN1,294 approx. €794

### Role of social and cultural factors

No information provided.

### Background data on the country

Population:	31.051m.
Number of divorces:	70,828
Divorces per 10,000 inhabitants	22.81
GDP per capita (€)	€26,055
GDP per capita (2003, \$US, PPP)	\$US30,500
Crime rate per 10,000 inhabitants: (UNODC, 2002)	810.6
Cases brought to criminal court per 100,000 inhabitants:	1,778

