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OUTLAYS ON LEGAL AID IN POLAND. COULD WE GET MORE OUT OF IT?[1]

1. INTRODUCTION

Common access to legal aid is a prerequisite of citizens' empowerment and their actual equality of opportunity. Yet, it is only recently that, after years of apparently feigned actions (Bojarski 2012), on 5 August 2015 the Polish Parliament finally enacted the *Act on Legal Aid and Legal Education*, to be launched on 1 January 2016. This means that Poland has joined the broad group of democratic states in which actual access to legal advice is not constrained by financial resources of citizens. Actually, that was the crucial declarative purpose of the reform, which implicitly resulted from many previous legal acts (Bojarski, Wiaderek 2009). However, it follows from the act's entries that the range of Polish citizens to benefit from the institutionalised legal aid system is considerably limited. This is so because the system covers only those who are social welfare recipients, i.e. the poorest ones. Obviously such a solution should not come as a surprise under limited outlays spent on the system functioning, once the means correctly match to the range of payees. However, this is apparently not the case, which follows from the contents of this article.

The aim of this article is threefold. Firstly, it is to estimate the public outlays on the functioning of the informal legal aid system that was in force in Poland before 2016. This is a necessary step to proceed to the estimation of the expected costs of reforming the system, which constitutes the next purpose of the paper. Finally, comparing the actual financial means directed

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to the funding and functioning of the institutionalised legal aid system in Poland with the estimates obtained in the investigation enables us to state whether the supply of legal aid matches the demand for it. Needless to say that in case they do not meet, there might be room for some adjustment and likewise for increasing the efficiency of the system.

The article is structured as follows. The next section is devoted to the description of original methods of estimation of total legal aid public outlays on the informal legal aid system in Poland before 2016, along with specific estimates. Section 3 deals with estimating the possible costs of converting the informal system into the institutionalised one, that is supposed to supplement – not to replace – the informal system. Final remarks close the paper, including arguments favouring considerable enlargement of the range of recipients of the formal system.

2. ESTIMATES OF AGGREGATE PUBLIC OUTLAYS ON THE INFORMAL LEGAL AID SYSTEM IN POLAND

An answer to the question about the public costs incurred on the informal legal aid system in Poland is neither easy nor clear-cut. This is so because of a few reasons. Firstly, there is no hard data available if as such one regards information provided by the Central Statistical Office of Poland or gathered by various government agencies, a situation typical not only of Poland (see Gramatnikov et. al. [2009]). Secondly, there arise classification doubts regarding some legal aid providers, especially those that do not deal with legal aid activity on their statutory grounds, even when de facto providing legal information or aid within the range of their specific, targeted activities (tax offices, inquiry counters at the court[2], etc.). These units have not been covered by the national survey investigation into legal aid providers – being an important source of data on the informal system[3] – which impedes the analysis.

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[2] The scale of the problem is well illustrated by comparing the list of institutions providing legal aid, elaborated by INPRIS in „*Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych*" ('*Free legal aid in Poland – analysis of available data*') (pp. 127–203), with the list of legal aid providers taken into consideration in the national survey, carried out by ISP (Institute of Public Affairs) in Preisert et. al. [2013], Table 10, p. 61.

[3] General information on the survey can be found in Burdziej, S., Dudkiewicz, M. [2013], and Preisert et al. [2013].

Thirdly, a large part of the costs reported by non-public providers may be hidden costs, not directly incurred by providers and related to e.g. renting office rooms free of charge due to third parties' support. Fourthly, participation in the national questionnaire into legal aid providers was voluntary and respondents were by no means obliged to give credible answers on financial issues, which must have impacted the quality of the financial statements.

Due to the afore-mentioned circumstances the computations presented in the article are not free from shortcomings and must be supplemented by additional assumptions, a crucial among which is full reliance on the information contained in the national surveys into both legal aid providers and legal aid recipients, carried out in 2012 by Instytut Spraw Publicznych in Warsaw [Institute of Public Affairs]. Consequently, in view of lack of hard data the suggested methods are quite original but unfortunately cannot be subjected to rigorous statistical verification.

In all the cost estimates presented further on the following assumptions are implicitly taken for granted:
a) informative credibility of the national survey outcomes on the legal aid providers and legal aid takers, carried out by Instytut Spraw Publicznych [Insitutute of Public Affairs] in Warsaw, Poland
b) the same informative loading/value of legal advice supplied by every legal aid provider,
c) actual participation in legal aid activities of all the legal aid providers enumerated on the list of the would-be providers elaborated by INPRIS [Institute of Law and Society], Warsaw, Poland in „Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych" [Free legal aid in Poland – analysis of available data], pp. 127-203, even if some of them were not covered by the national survey of legal aid providers, but this type of their actual activities was mentioned in the national survey of legal aid recipients.

Two procedures of measurement: a quasi-market one, and a quasi-budget one have been used while estimating the costs of the informal system. In the first approach on the basis of the estimated number of legal pieces of advice as well as assuming a geometric distribution of the time intensity of individual cases, a 'market' value of the total legal aid provided by the legal aid suppliers has been derived. Its disadvantage is the fact that the costs so computed do not directly correspond to the actual costs of the functioning of the legal aid system because the system's services are by definition not subject to market clearance mechanism. The above-mentioned shortcoming notwithstanding, the cost estimate might be associated with the total expenditure that legal

aid recipients would have to incur – providing they could afford it – if they decided on commercial legal services. In other words, this is an estimate that corresponds to a situation in which all of the activities of the legal aid system would be assigned to commercial law offices. Viewed this way this estimate is of fully informative weight.

Consequently, the quasi-market value of legal aid in Poland was computed by means of the following formula:

$$BPPDM_t = \sum_{i=1}^{I} BPPD_{it} \cdot c_{it} = \sum_{i=1}^{I} \omega_{it} \cdot BPPD_t \cdot c_{it} \qquad (1)$$

$BPPDM_t$ – monetary equivalent of free legal advice given in period t (here, in the year 2012),

$BPPD_{it}$ – number of legal aid cases of the i-th type in period t,

$BPPD_t$ – total number of legal aid cases in period t,

c_{it} – average market price of the i-th type of legal advice; cases are classified by difficulty level: $i = 1, 2, …, I$.

ω_{it} – share of legal advice of the i-th in the total number of legal advice given.

The geometric decline of weights ω_{it} in formula (1) has been assumed with the value of quotient set to ½ (see the first column in Table 1). In addition, it has been assumed that the distribution of time intensity of individual legal aid cases follows the scheme presented in column 2 of Table 1. It is worthy to mention that the expected value of the distribution equals 225 PLN, which is close to the average value of commercial advice reported by legal advice recipients, being 233 PLN.

Table 1

Fractions of cases by complexity/labour intensity and unit costs of their settlement

Fractions (weights) ω_{it}	Unit cost (in PLN)
0,5	100
0,25	200
0,125	300
0,0625	400
0,03125	500
0,015625	1000
0,0078125	1500
0,00390625	2000
0,00390625	3000

Source: own computations.

An estimate of the number of legal aid cases within a year has been obtained with a help of the survey of legal aid recipients, carried out using a representative sample of 1050 adult citizens of Poland (Burdziej, Dudkiewicz (2013), Preisert et al. (2013)). On the basis of this very information reported in Table 2, as well as the assumptions depicted in Table 1, one is able to estimate the total value of legal aid within a year. Adequate computations are shown in Table 3.

It follows from the analysis that a lower bound of the total legal aid costs, expressed in the „market" commercial equivalent, equals 540 million PLN. However, the employed measurement abstracts from actual public spending on the legal aid system in Poland. It is thus necessary to assess the actual financial burden of the system referring to another, more explicit procedure, here called the quasi-budge approach.

The second approach rests upon a direct attempt to estimate actual costs of the functioning of the informal legal aid system in Poland. Three sub-variants have been distinguished. The first takes for granted direct financial declarations of legal aid providers, reported by them in the national questionnaire, in line with the following formula:

$$TOTAL = \sum_{p=1}^{P} (1 - \sigma_p) \cdot L_p \cdot SCP_p \cdot 12 \qquad (2)$$

$TOTAL1$ – total yearly cost of those legal aid providers for which there is data on their average outlays on legal aid activities,

σ_p – fraction of providers/agents claiming no legal aid activities although envisaged in the list of legal aid providers,

P – number of types of providers,

L_p – exact number of p-type providers,

SCP_p – average, declared monthly costs of legal aid activities by providers' type,

12 – number of months in the year (excluding Students' Legal Aid Offices, for which the figure of 9 has been assumed).

Table 2

Estimates of legal aid cases in 2012

Institution providing legal aid	Number of declared cases per institution
Commune/City councils	51
District Authority Office	13
Voivodship Office	7

Institution providing legal aid	Number of declared cases per institution
Regional Marshal's Office	1
Social Aid Centres (PS, GOPS, MOPS)	26
Family Local Aid Centres	7
Courts	42
Attorney by Power of State	8
Prosecutor's Office	14
National Labour Inspectorate	10
Consumer Advocate	10
Ombudsman	2
Ombudsman for children	1
Commissioner for Patients' Rights	0
Insurance Ombudsman	1
Ministries or other central institutions	3
Foundations, associations	5
Church	4
Law firm	70
Trade union	2
MPs' and senators' offices	0
Consumers' Federation	0
Social Security Institution	10
Other	18
I did not search for aid	45
I do not remember/refusal to give an answer	6
TOTAL	356
RECEIVED LEGAL AID	311 = 356-45
FREE OF CHARGE	241 = 311-70
ESTIMATE OF FREE LEGAL AID CASES IN ONE YEAR	
Fraction in the sample in the five-year period	0,229524 = 241/1050
Fraction within one year (oblivion effect)[4]	0,076508 = 0,229524/3
Adult population of Poland in the investigation year (2011)	31333800
Estimate of the total number of legal aid cases	**2397284** = 0,076508*31333800

Source: own computations on the basis of the national survey on legal aid recipients

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[4] In the national survey of legal aid recipients, questions on demand for legal aid concern a five-year period. However, because of formal reasons – e.g. budget bill or act – the estimates must embrace a yearly period. Due to oblivion effect it has been assumed that an effective number of legal aid cases equals one third of the cases reported by legal aid recipients for a five-year period.

Table 3

Estimates of the lower bound of the 'market' value of the legal aid cases

Fractions (weights) ω_{it}	Unit cost (in PLN)	Aggregate cost (in thousands of PLN)
0,5	100	119864
0,25	200	119864
0,125	300	89898
0,0625	400	59932
0,03125	500	37458
0,015625	1000	37458
0,0078125	1500	28093
0,00390625	2000	18729
0,00390625	3000	28093
TOTAL		**539389**

Source: own computations on the basis of information reported in Table 1 and 2.

Adequate calculus is presented in Table 4 in the part entitled 'Estimates using direct financial declarations of legal aid providers'.

Under the second procedure – related to those public institutions for which legal aid activity is of crucial importance – the cost computations were based on assumed fractions of legal aid activities in the total costs of such institutions, the latter being officially known. Relevant computations have been carried out by means of the following formula:

$$TOTAL2 = \sum_{n=1}^{N} f_n \cdot BUDGET_i \qquad (3)$$

$TOTAL2$ – total costs of legal aid of the providers for which:
         a) legal aid constitutes a main domain of their activities,
         b) there is data on aggregate yearly cost of their functioning,
N – number of agents of the type under consideration,
f_n – fraction of spending on legal aid in the total costs of the providers' functioning,
$BUDGET_n$ – yearly, aggregate total outlays of the agents' functioning.

The calculus is reported in Table 4 in the part entitled 'Estimates using fractions in total costs'.

Finally, under the third approach the following logical and legal reasoning has been used to estimate the lower threshold of the costs incurred by those public institutions for which legal aid activities are of secondary and minor importance.

If one assumes that legal aid activity belongs to obligatory tasks of the institutions under consideration (see chapter 5 in „Krajowe podmioty udzielające porad i informacji prawnych" ['Domestic legal aid providers'], pp. 127–167, [in] „Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych" ['Free legal aid in Poland – analysis of available data'], INPRIS (2012)), then in order to carry out this duty there must be appropriate staff present in such institutions. This corresponds to a situation in which an official must be physically present in the office who is able to answer the petitioner's specific legal question. Moreover, the official does not have to be a concrete delegated person but it is about the very casus here: in practice, the petitioner is sure to search for the most competent official 'knocking at different doors' to find a relevant answer. Yet, it is assumed that the answer will be finally found if it is within the competence of a given institution.

The four preceding sentences – deliberately formed in a colloquial manner – exhibit the essence of the made assumption on minimal cost of the legal aid activities per institution. Firstly, there must be always an official present in the office, ready to give advice. Secondly, so defined an official is not necessarily a particular person but a 'composite official' that is composed of various clerks distracted momentarily from their routine activities to pay attention to the petitioner's questions. All this, together with the obligatory duty to serve specific legal aid to its petitioners within the institution's competence, defines minimal cost of legal aid in the form of a full-time official's gross salary. This minimal estimate should be enlarged by some relatively small mark-up on indirect costs because main tasks of such institutions are focused on activities other than legal aid.

Finally, the total cost of the group of legal aid providers under consideration were computed as follows:

$$TOTAL3 = \sum_{m=1}^{M} (1 - \sigma_m) \cdot L_m \cdot (v_m (1 + r_m) \cdot WP_m) \cdot 12 \tag{4}$$

$TOTAL3$ – aggregate cost of legal aid activity of the institutions for which legal aid is of a side purpose,

M – number of institutions of the type considered,

L_m – number of agents of the m-th type,

σ_m – fractions of agents declaring no legal aid activities; for all the agents it has been, however, assumed that $\sigma_m = 0$ (see also footnote 3),

v_m – full-time job multiplier; except for the Social Security Institution, tax offices and courts this was fixed at the value of 1, whereas for the former – at the value of 2. In the case of the afore-mentioned institutions

Table 4

Estimates of the quasi-budget total costs of the present legal aid system

Legal aid providers	Number	Declared fraction of legal aid committment	Assumed fraction of legal aid activity	Declared monthly costs of provosion (in PLN)	Average monthly salary (in PLN)	Salary multiplier	Number of months	Yearly total cost	Yearly total cost multiplier	Estimates of total yearly cost (in thousands of PLN)
Estimates using direct financial declarations of legal aid providers										
Social Aid Centres	2531	0.93	1	3174.778			12			96424
MPs' and senators' offices	554	1,00	1	1725			12			11468
NGOs	330	0.64	0.64	6594.118			12			16712
Local Family Aid Centres	315	0.89	1	1831.034			12			6921
Trade Unions	112	0.49	0.49	10400			12			6849
Consumers' Advocates	372	1,00	1	1500			12			6696
Consumers' Federation Offices	44	0.34	0.34	1500			12			269
Students' Legal Aid Offices	25	1,00	1	5000			9			1125
Citizens' Legal Aid Offices	30	1,00	1	25000			12			9000
Centers for the Hurt in Crime	16		1	25000			12			4800
Estimates using fractions in total costs										
Ombudsman	1		1					33599.7	0.25	8400
Ombudsman for Childres	1		1					7488.8	0.25	1872
Commissioner for Patients' Rights	1		1					6962	0.25	1741
Insurance Ombudsman	1		1					6 1549	0.25	1549
Estimates using statutory obligation to provide legal aid										
Social Security Institution	43	0.51	1		3676.86	2.6	12			4933
National Labor Inspectorate	61	0.2	1		5821.72	1.3	12			5540

Commune/City councils	2414	1	3868.74	1.3	12		145691
District Authority Office	314	1	3391.13	1.3	12		16611
County Councils	65	1	4368.97	1.3	12		4430
Voivodship Councils	16	1	4445.98	1.3	12		1110
Voivodship Marshal's Councils	16	1	4569.56	1.3	12		1141
Courts	377	1	5431	2.6	12		63882
Prosecutor's Offices	377	1	6667	1.3	12		39210
Ministries or other central institutions	96	1	7295.9	1.3	12		10926
Tax offices	352	1	4250.5	2.6	12		46681
TOTAL							**513980**

| | there are at least two enquiry counters, to say nothing of information provision gathered by petitioners on the 'knocking at different doors' basis, |

r_m – indirect costs as a mark-up on labour costs (salary multiplier), WP_m,: the parametrisation has it that absolute indirect costs – such as renting rooms, media costs, etc. – are higher in those institutions where labour costs are also higher (this makes sense since the vast majority of central institutions are located in the capital city, where these costs are higher than elsewhere). Following the minimal cost estimate rule applied in the estimation of total legal aid costs, this parameter was set at the value of 0.3, $r_m = 0,3$,

WP_m – full-time job salary in the m-th institution,

12 – number of months in the year.

All the parameters of formula (4), along with adequate computations are reported in Table 4 in the part entitled 'Estimates using statutory obligation to provide legal aid'.

The estimates of total public costs of the informal legal aid system in Poland have been arrived at – in both approaches: the quasi market one and the quasi budget one – employing minimal operationalisation parameters. Consequently, the estimate of the total costs derived on the commercial basis might be – if anything – understated. Irrespective of the methodological duality, it follows from the analyses that the actual public outlays on the informal, non-institutionalised system of legal aid in Poland were at least 500 million PLN.

3. ESTIMATES OF TOTAL COSTS OF INTRODUCING THE INSTITUTIONALISED REFORM

On the basis of the above-mentioned estimates should one draw a conclusion that any attempt at introducing an institutionalised reform of the legal aid system in Poland would trigger costs not lower than 500 million PLN? Paradoxically – bearing in mind the last paragraph of the preceding section – but luckily for the state budget: no!

Such statement might lead to the reader's confusion: after all these two conclusions seem apparently at odds with each other. Yet, it is not so! Below the reader will find solid reasoning clearing this supposition.

The sum reported in the preceding section would be a relevant figure of the costs of the reformed system providing it entirely took over all the legal

aid recipients from the informal system. However, it would be tantamount to quite an unrealistic – and economically ineffective – situation in which all the would-be legal aid recipients were banned from searching for help in non-formal agents, a situation of 'no entry' for legal information/advice to among others such institution as courts or county offices (would a possible new legal act formulate a clause of that type?). Consequently, the new formal system will not replace the old informal one but will only supplement the latter. That is why the actual demand raised for the new system's services by would-be legal aid recipients will be considerably lower and can be computed by means of the following relation:

$$NEWPPIO = a \cdot NOPUB + b \cdot PUB + c \cdot KOM + d \cdot OVERD \qquad (5)$$

where:
$NEWPPIO$ – demand raised for services of the new system,
$NOPUB$ – demand met by non-public agents on the informal 'market' of legal aid,
PUB – demand met by public agents on the informal 'market' of legal aid under a realistic assumption that their competence range remains unchanged once the reform has been introduced,
KOM – demand met within commercial market of legal advice,
$OVERD$ – currently unmet demand for legal aid,
a, b, c, d – transition parameters (fractions) from interval <0,1> from the old to the new legal aid system; differences between the value of 1 and the parameters' values inform about which fraction of legal aid recipients will remain at the old providers even after the new system has been introduced.

Let us note that all the variables in formula (5) are known or more precisely: can be derived using data from Table 2. The transition parameters remain, however, unknown. Yet, it is possible to educationally guess their values by means of logical reasoning supported – where possible – with additional information. The point of departure is a cardinal assumption that legal aid takers (legal advice customers) are free to choose a provider on the basis of their preferences.

Let us start with parameter 'a', which concerns non-public legal aid providers. Its most probable value is somewhere close to 1. The legal aid recipients are obviously aware of alternative options but for some reasons decide on this type of providers. That is why it seems reasonable to assume – especially if the quality of legal aid services provided within the new system

is to be not lower than that of *NOPUB* providers – that these legal aid recipients will in their integrity pass from the non-public providers to the new system providers. Besides, the very existence of non-public legal aid providers might be questioned under the new system: how will they be able to collect means for their activities once a formal system appears (e.g. some ways of collecting financial means might prove impeded or impossible then). Due to this – along with the strategy to get a maximum estimate of the costs of the reform – the value of parameter 'a' was set at 1. Consequently, all the legal aid recipients *NOPUB* will drop to the new system.
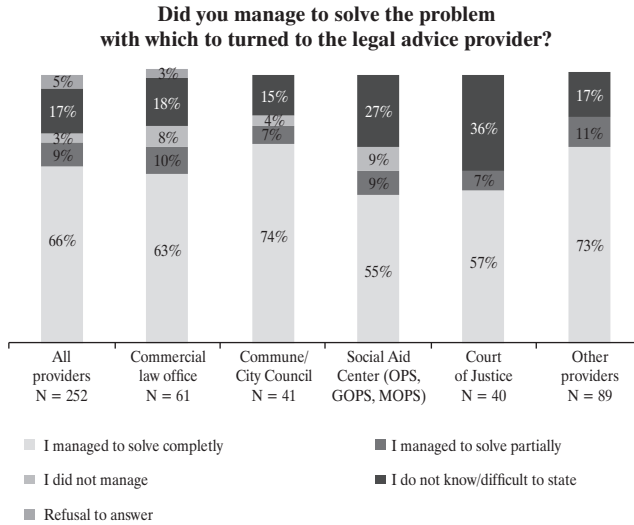
In the case of parameter '*b*' the problem seems more complicated and as such it calls for a longer reasoning before reaching a conclusion. The point of departure are the following rather non-controversial observations:

a) The reform will not change the number of the already existent public providers, which means that their supply will remain unaffected because legal aid either constitutes only a side-purpose of their main activities (e.g. commune/city councils) or their legal aid services are highly profiled (e.g. Ombudsman for Children).

b) Public providers will continue their legal aid activity at a scale prevalent before the introduction of the reform (may one forbid the petitioners/beneficiaries to enter commune or city councils to ask for help after the reform has been introduced?)

c) One can assume that awareness of the access privilege to the current public aid providers on the side of petitioners/beneficiaries is fully satiated since public providers of legal aid have been operating on this field for decades (Commune and City Councils, Social Aid Centres). It follows from figures 40 and 41 of the report elaborated at the *Institute of Public Affairs* (ISP) „Korzystający i niekorzystający z poradnictwa prawnego i obywatelskiego" ['Those who benefit from legal aid and those who do not'], (pp. 64–65, Instytut Spraw Publicznych [Institute of Public Affairs], Warszawa 2012) that the awareness of access to legal aid is twice as big regarding public providers as the non-public ones.

It follows from the above considerations that parameter '*b*' depends only on the reasons why legal aid recipients decide on a given provider or on the satisfaction the recipients get from the provider, or – finally – on the perceived effectiveness of the public providers. Consequently, if such providers are regarded as inferior than others, then one should expect a high value of parameter '*b*', otherwise there are reasons to expect it to be considerably higher than 0. Figures 1–3 show some information that enables drawing adequate conclusions in this regard.
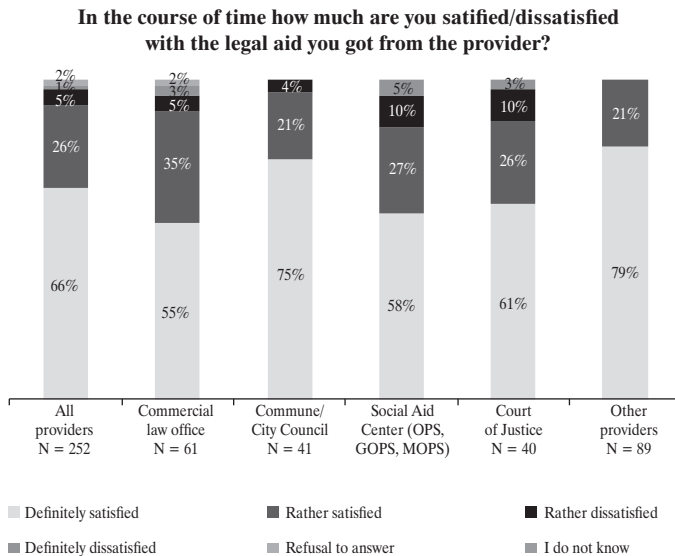
Solution of legal aid takers' problems by legal aid provider

**Did you manage to solve the problem
with which to turned to the legal advice provider?**

Source: Burdziej S., Dudkiewicz M. [2013], p. 117.

Satisfaction with the received aid

**In the course of time how much are you satified/dissatisfied
with the legal aid you got from the provider?**

Source: Burdziej S., Dudkiewicz M. [2013], p. 119.

Reasons for obtaining aid (information) from a given legal aid provider

Why did you decide to get advice from a given institution?
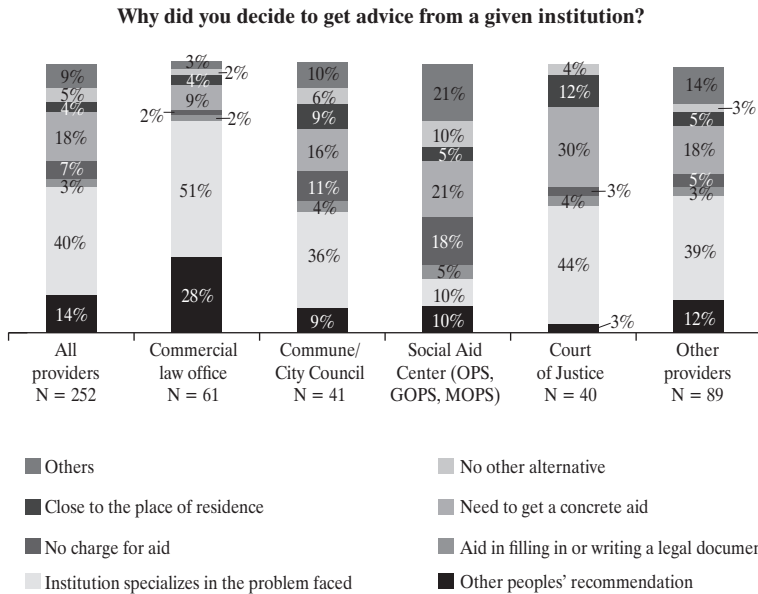
Source: Burdziej S., Dudkiewicz M. [2013], p. 114.

It follows from Figure 1 that the solution of legal problems is independent of the provider's type. Traditional public providers seem to function not worse than the non-public or commercial ones. Secondly, while doing appropriate computations some general assumptions have been made, listed in section 2. In particular, it has been assumed that all the legal cases reported in the national questionnaire-investigation into legal aid recipients possess the same information/legal loading, irrespective of the provider's type. Consequently, the same monetary value has been assigned to each such case, which constituted the methodological foundation of the 'market approach' described in section 2.

As far as the legal aid recipients' satisfaction is concerned (see figure 2) only a small fraction of them (less than 10%) express dissatisfaction. Besides, among the motives for the selection of public providers only circa 10% of respondents point to the lack of other possible sources of legal aid, which should be regarded as a key factor while estimating the value of the transition parameter '*b*', providing the institutionalised net of legal aid offices is sufficiently dense. In effect, the *best guess* for a maximum estimate of parameter '*b*' (see formula (5)) lies in the interval <0,1; 0,2>, most probably

being closer to the lower bound of this interval. Yet, in accordance with the maximum total costs estimation procedure used in the present computations, the estimate under consideration has been fixed at 0,15.

Parameter '*c*' in equation (5), describing an outflow from the commercial customers to the institutionalised legal aid system, remains a big unknown. Unlike parameter "*b*" it is difficult – on the basis of figures 1–3 – to draw explicit conclusions regarding the most probable estimate of parameter '*c*'. Yet, it seems that this estimate should be very small. Firstly, people deciding on paid services must be convinced that they get *value for money*, which is confirmed by the data in figure 3 (especially if compared to non-commercial providers). The other information in figures 1-3 does not show any weaknesses of commercial providers, either, if compared with non-commercial ones. In effect, in the current yet long-lasting perspective[5], the value of 0.05 as an estimate of parameter '*c*' – being the share of dissatisfied customers – seems most adequate.

The last parameter '*d*' in formula (5) is the most difficult to fix of all. This is so because it refers to this group of the Polish society that although declared a legal problem, decided to leave it unsolved. It is this very group for which the awareness of legal aid privilege is of crucial importance, just like the density of legal aid offices. That is why the possible demand on the side of this group is dependent upon the formula of the introduction of the reform: standard, modest publicising *versus* a massive mass-media campaign preceding and/or accompanying the introduction of the reform (see also W. Florczak [2012]).

In line with the adopted costs estimation procedure (an attempt at estimating maximum costs) it has been implicitly assumed that the reform will be accompanied by extensive publicity, and that the future net of legal aid provision will be dense enough to guarantee cheap logistic accessibility.

Information reported in Figure 4 is useful here. The reasons for which respondents gave up or did not obtain legal aid, corresponding to the notion of legal aid privilege and logistic availability of legal aid services, can be derived from answers to the following questions in figure 4:
a) I could not afford it,
b) I got dispirited not being able to find such aid,
c) This would be too time-consuming,
d) Aid was unavailable in the place of my residence.

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[5]   This situation might change in the long-run (decades rather than years), providing – which seems a very strong assumption – commercial customers regard non-commercial provision of legal advice as valuable and qualitatively good as free legal aid.

Figure 4

Declared reasons for giving up aid

What made you stop searching for legal aid?
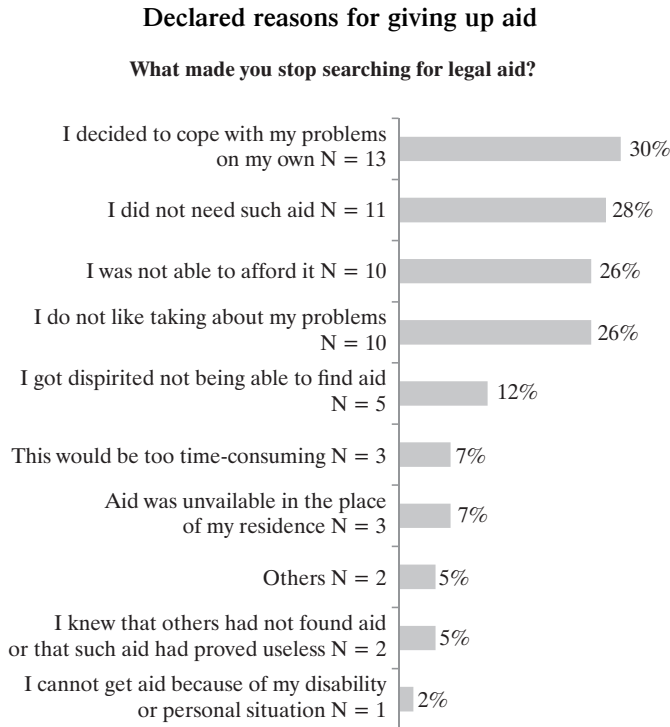
Source: Burdziej S., Dudkiewicz M. [2013], p. 152.

The answers to the question asked in Figure 4 were multiple-choice ones. Consequently, the maximum estimate of the short-run transition of people who reported a legal problem but left it unsolved, being parameter '*d*' in formula 4, can be estimated at 0,35 (= 21/60).

Finally, the operational version of the general formula (4), defining the maximum demand for the legal aid services provided within the new system, is as follows:

$$NEWPPIO = 1 \cdot NOPUB + 0{,}15 \cdot PUB + 0{,}05 \cdot KOM + 0{,}35 \cdot OVERD \quad (6)$$

where symbols of variables are given in formula (5).

Table 5 explicitly reports all computations of the maximum total costs due to the reform. It follows from the calculations that the upper bound of aggregate costs due to the introduction of legal aid reform in Poland is 176 million PLN in 2012 prices (circa 60 million USD).

The afore-reported estimates cover only direct public costs of the reform, excluding a possible central state organ – call it Legal Aid Board – that would monitor, control, certify and scientifically supervise the system. It seems that a rough and ready estimate of the costs of the functioning of such a body would be up-close to the costs of the functioning of one of the already existent central legal-administrative institutions mentioned in Table 4 in the second group of legal aid providers. In general, it seems highly advisable for the Legal Aid Board to deal with all the vital aspects of the system, whereas possible savings could be searched for in reasonable usage – in line with the available means – of its powers.

Table 5

Estimates of maximum yearly costs of the new legal aid system

Legal aid providers by groups + hidden demand (see formula 4)	Fraction of answers allowing for the oblivion effect (multiplier = 1/3)	NUMBER of legal aid cases by provider's type + hidden demand numerical amount (= Fraction *adult population of Poland)	Passage parameter (see formula 5)	Estimate of the number of legal aid cases within the new system (= Number of legal aid cases * Passage parameter)	Average unit cost of legal advice	Aggregate costs (= Average unit cost number of cases), in thousands of PLN
NOPUB	0,008571429	268575	1	268575	225	60429
PUB	0,067936508	2128709	0,15	319306	225	71844
KOM	0,022222222	696307	0,05	34815	225	7833
OVERD	0,014603175	457573	0,35	160150	225	36034
TOTAL						176141

Source: own computations.

If to introduce some subject or income limitations to the legal aid provision within the new system, then the expected costs may lower significantly. Combining the method presented here with the cost estimates arrived at by J. Winczorek, using alternative procedures based solely on the national questionnaire-investigation into legal aid recipients, and supported by some additional assumptions (see Winczorek J. [2014]), enables the estimation of adequate costs under accessibility limitations.

Table 6

Cost estimates under limiting subject criteria

Law subject	Cost estimates under subject limitation, thousands of PLN; lower bound estimatea)	Cost estimates under subject limitation, thousands of PLN; expected valuea)	Cost estimates under subject limitation, thousands of PLN; upper bound estimatea)	Share of subject limitation in the total cost estimate, lower bounda)	Share of subject limitation in the total cost estimate, expected valuea)	Share of subject limitation in the total cost estimate, upper bounda)	Cost estimate under subject limitation after the reform introduction, thousands of PLN; lower bound estimate	Cost estimate under subject limitation after the reform introduction, thousands of PLN; expected value	Cost estimate under subject limitation after the reform introduction, thousands of PLN; upper bound estimate
Family law	72788	92150	111511	0,208802	0,199336	0,193607	27734	35111	42488
Law of succession	53268	68663	84057	0,152806	0,148529	0,145941	20296	26162	32028
Civil law and civil procedure	54601	70270	85938	0,15663	0,152005	0,149206	20804	26774	32744
Social security (social insurance, social aid)	34230	45462	56693	0,098193	0,098341	0,098431	13042	17322	21601
Residential law	32397	43207	54016	0,092935	0,093463	0,093783	12344	16463	20581
Labour law	32917	43849	54781	0,094427	0,094853	0,095111	12542	16708	20873
Financial law	19284	26896	34508	0,055319	0,058181	0,059913	7348	10248	13148

Other	18001	25278	32555	0,051638	0,054681	0,056522	6859	9632	12404
Criminal law, criminal procedure, criminal executive law	12160	17829	23498	0,034882	0,038567	0,040797	4633	6793	8953
Property law	8422	12961	17500	0,02416	0,028037	0,030384	3209	4938	6668
Administrative law, administrative procedure	10531	15721	20910	0,030209	0,034006	0,036304	4013	5990	7967
Total:	348599	462283	575967						
TOTAL:							132825	176141	219457

Source: own computations; a) J. Winczorek [2014], Table 5, p. 41.

Table 7

Cost estimates under income limitation criteria

Income limitation criteria (per person in household)	Cost estimates under income limitation, thousands of PLN; lower bound estimate[a]	Cost estimates under income limitation, thousands of PLN; expected value	Cost estimates under income limitation, thousands of PLN; upper bound estimate[a]	Share of income limitation in the total cost estimate, lower bound; on the basis of[a]	Share of income limitation in the total cost estimate, expected value	Share of income limitation in the total cost estimate, upper bound on the basis of[a]	Cost estimate under income limitation after the reform introduction, thousands of PLN; lower bound estimate	Cost estimate under income limitation after the reform introduction, thousands of PLN; expected value	Cost estimate under income limitation after the reform introduction, thousands of PLN; upper bound estimate
Up to 500 zt	20568	46288	72008	0,059002	0,092012	0,125021	7837	16207	27437
Up to 1000 zt	72344	120847,5	169351	0,207528	0,250779	0,29403	27565	44173	64527
Up to 1500 zt	132724	201690	270656	0,380737	0,425327	0,469917	50571	74918	103127
Up to 2000 zt	197832	286159	374486	0,567508	0,608848	0,650189	75379	107243	142689
Up to 3000 zt	261764	368199,5	474635	0,750905	0,787487	0,824069	99739	138709	180848
Total cost estimates[a]; no income limitation (present system)	348599[a]	462283	575967[a]						
Total cost estimates; no income limitation (future system); on the basis of[a]	132825	176141	219457						

[a] J. Winczorek [2014], Table 3, p. 4.

Source: own computation.

Tables 6 and 7 report relevant computations, with the estimate of the expected total costs reported in Table 5 (176 million PLN) as a benchmark, whereas the interval estimates of the costs obtained by J. Winczorek [2014] serve as a passage from the author's of this paper expected value estimates to the interval ones.

It follows from the computations shown in Tables 6 and 7 that, indeed, accessibility limitations lead to a considerable drop in the total costs. It is just this fact that makes the introduction of the reform possible, virtually irrespective of the actual financial capacity of the state because one can point to a cheaper of dearer variants of the reform that can befit the available capacity. This observation allows one to authoritatively claim that an initiation of the reform is of purely political character and its abandonment is tantamount to the lack of the political will to do so.

4. FINAL REMARKS

The estimates of the outlays on the reformed legal aid system in Poland might serve as a reference point for elaboration of appropriate accessibility criteria to meet the administratively budget-constrained supply with actual demand in such a manner as to balance the two. Table 8 presents financial outlays on the funding and functioning of the institutionalised legal aid system as established by the *Act on Legal Aid and Legal Education* as of 5 August 2015. The Act envisages a continual rise in the levels of means devoted to the functioning of the system from slightly over 94 million in 2016 up to 116 million in year 2025.

Table 8

Outlays on the funding and functioning of the legal aid system envisaged in the *Act on Legal Aid and Legal Education*

Year	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Outlays	94,183	96,161	98,565	100,93	103,352	105,833	108,373	110,866	113,415	116,024

Source: http://isap.sejm.gov.pl/DetailsServlet?id=WDU20150001255

However, the range of recipients eligible for the aid remains limited in general only to payees of the social assistance benefits, i.e. to people whose income falls within the first income group reported in Table 7. The expected value of the outlays necessary to cover such demand equals 16 million PLN,

which is approximately five times lower than the actual total expenditures on the functioning of the system on the supply side. Consequently, the state of affairs in the present institutionalised legal aid system must show – if to trust the estimates – signs of imbalance with a considerable oversupply.

Although it is obviously much too early to draw binding conclusions, the first and rough information on the actual demand for legal aid, collected on the basis of the few months operation of this system, seems to confirm this observation (www.obywateliprawo.pl/files/cke/Raportczstkowynieodpatnapomocprawna2016.pdf). If this is the case then it would be possible to cost-free extend the range of would-be recipients of the system. It follows from the computations performed in this article that even constrained by the present budget limitations the system would be able to carry the burden of much higher income accessibility criteria, including income up to 1500 PLN per person in a household. This would be exceptionally advisable as according to the literature on legal aid it is especially people of lower middle income that are too rich to get legal aid free of charge and at the same time too poor to afford commercial legal aid (e.g. Winczorek 2012).

References

Institute of Law and Society. 2012. *Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych.* [*Free legal aid in Poland – analysis of available data.*] Warszawa: INPRIS. Available at: http://www.ppio.eu/do_pobrania/ dokumenty/raport_z_analizy_danych_INPRIS.pdf.

Bojarski, Ł. 2012. Przegląd projektów ustaw dotyczących systemowych rozwiązań poradnictwa prawnego. [Review of draft laws pertaining to systemic solutions of legal counseling.] In: *Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych.* [*Free legal aid in Poland – analysis of available data.*] Warszawa: Instytut Prawa i Społeczeństwa, INPRIS. Available at: http://www.ppio.eu/do_pobrania/dokumenty/raport_z_ analizy_danych_INPRIS.pdf.

Bojarski, Ł., Wiaderek, G. 2009. Starania o ustawową regulację dostępu do nieodpłatnej pomocy prawnej – historia i stan obecny. [Efforts to regulate access to complimentary legal aid – history and current state.] In: Winiarska, A. ed. *Obywatel i prawo.* [*Citizen and law.*] Warszawa: Instytut Spraw Publicznych. Available at: http://www.isp.org.pl/files/315439975019 1333001257250212.pdf

Burdziej, S., Dudkiewicz, M. 2013. *Korzystający i niekorzystający z poradnictwa prawnego i obywatelskiego.* [*Those who benefit from legal aid and those who do not*.] Warszawa: Instytut Spraw Publicznych. Available at: http://isp.org.pl/uploads/filemanager/pliki/poradnictwo/RaportISPBeneficjenci-final16.04.13.pdf.

Florczak, W. 2012. System poradnictwa prawnego i obywatelskiego: rozważania ekonomisty i próba operacjonalizacji. [Legal and civic counseling system: an economist's reflections and an attempt to operationalise.] In: *Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych* [*Free legal aid in Poland – analysis of available data*.] Warszawa: Instytut Prawa i Społeczeństwa, INPRIS. Available at: http://www.ppio.eu/do_pobrania/dokumenty/raport_z_analizy_danych_INPRIS.pdf.

Gramatnikov, M., Barendrecht, M., Laxminarayan, M., Verdonschot, J.H., Klaming, L., van Zeeland, C. 2009. *A Handbook for Measuring the Costs and Quality of Access to Justice*. Apeldoorn: Tilburg Institute for Interdisciplinary Studies of Civil Law and Conflict Resolution Systems, Maklu Publishers. Available at: https://www.measuringaccesstojustice.com/wp-content/uploads/2011/03/Handbook_v1.pdf.

Preisert, A, Schimanek, T., Waszak, M., Winiarska, A. eds. 2013. *Poradnictwo Prawne i Obywatelskie w Polsce. Stan obecny i wizje przyszłości.* [*Legal aid in Poland. The present state and future visions*.] Warszawa: Instytut Spraw Publicznych. Available at: http://www.isp.org.pl/uploads/pdf/443334703.pdf.

Winczorek, J. 2012. Przegląd literatury na temat dostępności i korzystania z pomocy prawnej. [Survey of literature on legal aid access and availability.] In: *Bezpłatne poradnictwo prawne i obywatelskie – analiza danych zastanych.* [*Free legal aid in Poland – analysis of available data.*] Warszawa: Instytut Prawa i Społeczeństwa, INPRIS. Available at: http://www.ppio.eu/do_pobrania/dokumenty/raport_z_analizy_danych_INPRIS.pdf

Winczorek, J. [2014], Dostęp do poradnictwa – stan obecny i możliwości zmiany. [Access to legal aid – present state and change opportunities.] In: Wiaderek, G. ed. *Poradnictwo prawne i obywatelskie – system, koszty i innowacje.* [*Legal aid – system, Costs and innovations.*], Warszawa: Instytut Prawa i Społeczeństwa, INPRIS. Available at: http://www.inpris.pl/fileadmin/user_upload/documents/Analiza_INPRIS__1_.pdf

http://www.nik.gov.pl/analiza-budzetu-panstwa/archiwum/kontrole-czastkowe-2011.html

http://www.stat.gov.pl/cps/rde/xbcr/gus/pw_zatrudnienie_wynagrodze-nia_2011.pdf

http://www.rzu.gov.pl/files/20735__5275__Sprawozdanie_Rzecznika_Ubezpieczonych_za_rok_2011.pdf

www.obywateliprawo.pl/files/cke/Raportczstkowynieodpatnapomocpraw-na2016.pdf

http://isap.sejm.gov.pl/DetailsServlet?id=WDU20150001255

OUTLAYS ON LEGAL AID IN POLAND.
COULD WE GET MORE OUT OF IT?

Summary

This article deals with estimates of the costs of the informal legal aid system in Poland along with estimates of a possible institutional reform of the system. Due to the lack of official data it was necessary to apply novel procedures of measurement. Two approaches were used: a quasi-market and a quasi-budget one. In line with the first approach the costs of the informal legal aid system in 2012 were estimated at 540 million PLN. Under the other approach, depending on data availability on particular legal aid providers, three specific procedures of measurement of unit costs were employed, which in combination with precise information on the total number of legal aid providers by type, enabled estimation of the total costs of the informal system. Implementation of the quasi-budget approach resulted in the estimation of the annual total costs of the present system at the level of 514 million PLN (ca 170 million USD). Such a result is thus close to the quasi-market estimate, which seems to raise the credibility of the performed computations. Finally, one is allowed to formulate a conclusion that annual cost of the functioning of the informal system of legal aid in Poland was well above 500 million PLN, as the calculus was carried out with minimalistic cost assumptions. The article also attempts at estimating the costs of an institutionalised legal aid reform in Poland. A main premise behind adequate computations is the observation that the new system will not replace the existent one but will just supplement it. This is so because a complete replacement of the present informal system with a new formal one would prove economically ineffective as this act would be tantamount to depriving the already well-functioning providers of the right to give legal support to those in need. A key issue for estimating the costs of the reform consists in establishing the amount of unmet demand for

legal aid as well as the outflow of legal aid recipients from the old to the new system, including outflows from the commercial sector of legal advice. Using deductive analysis, supported by data and conclusions drawn on the basis of the national questionnaires into legal aid recipients and providers, the upper estimate of the total costs of the reform was fixed at the level slightly below 180 million PLN (ca 60 million USD).

Nakłady na pomoc prawną w Polsce. Czy można osiągnąć więcej?

Streszczenie

Artykuł niniejszy przedstawia szacunki kosztów funkcjonowania bieżącego, nieodpłatnego systemu poradnictwa prawno-obywatelskiego w Polsce. Ze względu na brak twardych danych zaproponowano autorskie procedury pomiaru. Wyróżniono dwie metody wyceny: quasi-rynkową oraz quasi-budżetową. Zgodnie z pierwszą publiczne koszty funkcjonowania nieformalnego systemu pomocy prawno-obywatelskiej wyniosły w 2012 roku 540 milionów złotych. Wielkość tę uzyskano na podstawie informacji o ogólnej liczebności udzielonych porad oraz ich rozkładzie ze względu na stopień trudności/czasochłonności. W metodzie drugiej, w zależności od dostępności danych oraz specyfiki podmiotów udzielających porad prawno-obywatelskich, zaproponowano trzy warianty pomiaru. Wycena łącznych kosztów według procedury quasi-budżetowej wyniosła 514 milionów złotych. Uzyskany rezultat jest zatem bliski wielkości otrzymanej w metodzie quasi-rynkowej, co wydaje się wzmacniać wiarygodność analizy. W świetle uzyskanych wyników stwierdzić można, że wysokość publicznych nakładów na funkcjonowanie niezinstytucjonalizowanego sytemu pomocy prawno-obywatelskiej jest nie niższa niż 500 milionów złotych rocznie. Artykuł podejmuje również próbę szacunku kosztów wdrożenia zinstytucjonalizowanej reformy systemu pomocy prawno-obywatelskiej w Polsce. Główną przesłanką przeprowadzonych rachunków jest spostrzeżenie, że zreformowany system nie zastąpi, ale jedynie uzupełni istniejący, nieformalny system poradnictwa. Całkowite zastąpienie systemów byłoby bowiem nieefektywne ekonomicznie, gdyż zakładałoby likwidację dotychczasowych mniej kosztownych rozwiązań. Kluczowym elementem analizy jest ustalenie wielkości niezaspokojonego popytu na usługi nieodpłatnego poradnictwa, jak również przepływu beneficjentów z dotychczasowego systemu do systemu nowego, łącznie z odpływem z sektora usług komercyjnych.

Adekwatne parametry przejścia zostały wydedukowane na podstawie wyników ankietowego, reprezentatywnego badania beneficjentów i usługodawców obecnego systemu. Górny pułap szacunku kosztów wdrożenia systemu pełnej, nieograniczonej dostępności do pomocy prawno-obywatelskiej stanowi kwota 180 milionów złotych.

Затраты на юридическую помощь в Польше.
Можно ли достичь большего?

Резюме

Настоящая статья представляет собой оценку текущих эксплуатационных расходов в бесплатной системе юридического консультирования в Польше. В связи с отсутствием постоянных данных предложены авторские процедуры измерения. Различаются два метода оценки: квазирыночный и квазибюджетный. В соответствии с первым методом государственные эксплуатационные расходы в неформальной системе юридической помощи составили в 2012 году 540 млн. злотых. Эта величина получена на основе общей информации о количестве предоставленных консультаций, а также их распределения по уровню сложности и временным затратам. В соответствии со вторым методом, в зависимости от доступности данных и характера субъектов, предоставляющих юридические консультации, предложены три варианта измерения. Оценка общих затрат по квазибюджетной процедуре составила 514 млн. злотых. Таким образом, данная величина приближена к количеству, полученному в соответствии с квазирыночным методом, что, по всей видимости, усиливает достоверность результатов анализа. В свете полученных результатов можно утверждать, что объём государственных расходов на функционирование неинституционализированной системы юридической помощи не ниже 500 млн. злотых в год. В данной статье также предпринята попытка оценить затраты на осуществление институциональной реформы системы юридической помощи в Польше. Главной предпосылкой проведенных расчётов является утверждение, что реформированная система не заменит, а только дополнит существующую неформальную систему консультирования. Полная замена систем была бы неэффективной с экономической точки зрения, поскольку она предполагала бы отмену прежних, менее дорогостоящих решений. Ключевым элементом анализа является установление объёма неудовлетворенного спроса на услуги по бесплатному консультированию, а также притока бенефициаров из прежней системы к новой, включая

отток из сектора коммерческих услуг. Адекватные параметры перехода были получены на основе результатов опросного, представительского исследования бенефициаров и поставщиков услуг в настоящей системе. Верхний предел стоимости полного и неограниченного доступа к юридической помощи составляет 180 млн. злотых.