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National Report (Japan)

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Japan Legal Support Center

1. Organization

1.1. Provider of Legal Aid

The provider of legal aid in Japan is the Japan Legal Support Center (the “JLSC”, and its nickname is “*Hou Terrace*”), which was established in 2006 pursuant to the Comprehensive Legal Support Act. It is under the supervision of the Ministry of Justice and provides civil and criminal legal aid. In addition, it provides three types of services: legal information services, support for crime victims and services for the areas which are lacking in legal resources.

Civil legal aid in Japan had been provided for more than fifty years by a civil organization, called the Japan Legal Aid Association, which was set up under the initiative of the Japan Federation of Bar Associations, and it also received subsidy from the government. By establishing JLSC in 2006, the government had taken responsibility to operate civil legal aid. Since the organizational base for civil legal aid had been well-prepared, it has become more popular and the number of legal aid cases has increased by 10% or more compared to the previous years for a couple of years.

On the other hand, criminal legal aid had been provided by the court, which was limited to services during the post-indictment stage. In 2006, JLSC replaced the court and became responsible for the provision of criminal legal aid, the scope of which had been expanded gradually up to pre-indictment stage.

1.2. Organization

1.2.1. Human Resources

JLSC has a head quarter in Tokyo, 50 district offices, 11 district branch offices, 6 sub-branch offices and 26 local law offices across the

country. The total number of secretariats is around 800.

Legal services for legal aid cases are delivered by contracted attorneys (around 12,000 for civil legal aid and, around 15,000 for criminal legal aid), contracted judicial scriveners (around 4,500), and staff attorneys (around 150).

The government paid 100% of JLSC's capital and accounts for almost all of JLSC's income. So far contribution from the civil sector is rather small.

1.2.2. Business Plan of Legal Aid

The business plan of legal aid is prepared by the head quarter to ensure that the quality of the services is the same across the country. In order to secure a certain level of autonomy from the government, JLSC takes a form of an Incorporated Administrative Agency. When the Minister of Justice decides the mid-term business target and the mid-term business plan for JLSC, he shall hear views of the Evaluation Commission (blue-ribbon panel appointed by the Minister of Justice for evaluating the performance of JLSC) and the Supreme Court.

1.3. Finance

As discussed before, financial resources for legal aid are mainly governmental fund. However, since civil legal aid in Japan employed a loan system, under which the cost paid by JLSC for a grantee must be reimbursed as a general rule, those reimbursed money accounts for 65% of the annual income for civil legal aid.

1.4. Supervision

JLSC is a public corporation under the jurisdiction of the Ministry of Justice and it is almost equivalent to the form of an Incorporated Administrative Agency. An Incorporated Administrative Agency is a public corporation established by the government, and the law secures its autonomous management for the purpose of running a highly public business effectively, transparently and with higher quality. Involvement of the Minister concerned is limited to the items prescribed by the law. Application of the fund from the government is

not tied. As for JLSC, although the Minister of Justice has the power to appoint its president, draw up its mid-term business target, evaluate its performance, approve its Statement of Operation Procedures which prescribes basic framework of its operation, he shall take the view of the Supreme Court beforehand so that he could execute this power more fairly. There are no noticeable problems on supervision of the Ministry of Justice so far.

2. Legal Aid Services and Application Procedures

2.1. Scope and Types of Services

JLSC provides Information Services in addition to civil legal aid. The Information Services are available for anyone who wants to obtain information on legal systems and organizations which offer legal services, regardless of their income, by phone or face-to-face.

The civil legal aid system is designed to provide legal aid to people in financial difficulties throughout Japan for litigation and settlement out of court in civil, family and administrative cases. It is also available for Alternative Dispute Resolution as long as the use of ADR is effective as a means of reconciliation before going to court.

Civil legal aid services consist of free legal consultation, an interest-free loan for legal fees paid to attorneys or judicial scriveners for the legal representation or preparation of documents to be submitted to the court.

As a general rule, applicants are required to apply for the services by themselves. However, in case the applicants cannot for some reasonable ground make an application by themselves, they may make an application through their agent.

2.2. Procedures and Criteria for Granting Legal Aid

2.2.1. Legal Consultation Aid

Under the civil legal aid program face-to-face legal consultation is available by advance reservation. Applicants usually wait for one or two weeks before having a consultation. In order to receive the free consultation services, there are requirements to be fulfilled. Firstly, this is limited to those with income and savings below a certain level. Secondly, the use of the system needs to be suitable for the purpose of

civil legal aid. Whether the application meets these requirements or not is checked verbally at the time of reserving the consultation.

The criteria for financial eligibility are based on the number of family members living together and the after-tax income and savings of an applicant and his or her spouse. Housing costs are considered as necessary expenses and added to the amount of the criteria. For example, if the applicant is a single person, his monthly income must be under ¥182,000 (about US\$1,960) to be qualified and if he or she pays the rent, the amount of income criteria will be raised accordingly up to ¥41,000 (about US\$441). If an applicant lives with his or her spouse and two kids, the after-tax income of the couple needs to be less than ¥299,000 (about US\$3215) and the monthly housing cost up to ¥71,000 (about \$763) is added to the amount of the criteria. In case an applicant lives in a big city such as Tokyo and Osaka, the income criteria is increased by 10%. Even when the income or savings go over the criteria, proper consideration will be given to the expenses of medical care, education, and so on.

2.2.2. Representation and Documentation Aid

The civil legal aid program also provides an interest-free loan for legal fees. Applicants who wish to obtain loans are required to submit documents proving their income, residence certificate and so on. The Examining Commissioner, who are familiar with the civil legal aid program and appointed by the Director of the District Office, assesses each application and decides whether a legal loan should be provided or not and how much money to be paid, taking into consideration the merit of the case, which means the prospect of success or favorable settlement. It usually takes two or three weeks until an application goes under review by the Examining Commissioner.

At present, 90% of legal aid cases are handled by contracted lawyers and the other 10% are handled by staff attorneys. The fee table for legal aid lawyers is stipulated in the Statement of Operation Procedures and the base amount is set at a level that is far below the amounts charged by private practitioners.

JLSC advances the costs of legal procedures, and recipients of legal aid are required to reimburse the cost without interest. Not only

remunerations and costs paid to attorneys or judicial scriveners, but also court fees and security deposits for an injunctive order are covered if necessary on the condition that they are repaid by recipients. Usually recipients of legal aid repay by installments \ 5,000 to \10,000 per month. There are cases in which payment may be graced until the case is concluded, depending on the recipients' financial situation. When a case results in an economic benefit, clients are required to pay out the remaining balance by lump sum payment. On the other hand, it is possible for a client to apply for an exemption from repayment obligation if he or she has difficulty in repaying because of lack of funds even after the conclusion of the case.

2.2.3. Aid for Foreign Nationals

The civil legal aid program is open for foreign nationals living in Japan and they are able to receive a free interpreter service for legal consultation if necessary. However, these services are available only for foreigners residing in Japan legally and they are required to show their alien registration card. As for undocumented foreigners, they are able to apply for refugee status or visa status in addition to civil legal procedures under the legal aid services entrusted to the JLSC by the Japan Federation of Bar Associations.

2.3. Criminal Legal Aid

In most criminal cases except for lesser ones, suspects who cannot afford a private attorney are eligible for a court-appointed attorney. The public defender system is available for foreign nationals as long as they meet the financial requirements. A court appoints attorneys for the eligible defendant but it is JLSC that makes payments to the attorneys for their activities. The budget of this program is independent of other services of the JLSC and increase in expenditure of this program does not affect the budgets for other programs.

3. Other issues

3.1. For promoting access to justice

3.1.1. Services for areas lacking in legal resources

One of the mission of JLSC is to eradicate areas where people have

difficulty in accessing legal services because there are no lawyers nearby. To that end JLSC set up law offices (26 offices as of 31 March 2009) in such areas, stationed staff attorneys there, and provide legal services including legal aid to the local people. In addition, since lawyers who provide legal services to people with low income are lacking in larger cities as well, JLSC opens law offices in 41 cities and arranges staff attorneys who are to handle legal aid cases exclusively.

3.1.2. Home visit consultation

JLSC operates consultation program for people who have difficulty in physically coming to its office such as elderly or handicapped people, under which a lawyer visits their home or welfare facility. From April to August of 2009, 243 home visit consultation services were provided.

3.1.3. Dissemination of information about legal aid to the public

JLSC operates a call center providing legal information in response to more than 400,000 inquiries a year and introduces civil legal aid to around 20% of those inquiries to promote its use. In addition we put detailed explanation about civil legal aid on our website and furnish counseling counters of the related organizations such as courts and city offices with our leaflet.

3.2. Recruiting legal aid lawyers

JLSC holds a seminar especially for new lawyers in co-ordination with bar associations. Although the courts do not provide any privileges to a legal aid lawyer in Japan, JLSC makes efforts to recruit well-motivated lawyers by appealing to them the significance of the legal aid program.

3.3. Assuring quality of legal aid services

On concluding a case, a legal aid lawyer must submit a concluding report to JLSC and the Examining Commissioner will review it in order to decide the amount of closing fee. Through this process, the quality of services provided by legal aid lawyers is generally maintained.

3.4. Challenges

Challenges JLSC facing currently are as follows.

In terms of finance, we have to secure sufficient income in order to provide legal aid to more cases in response to increasing need. To that end, it is necessary both to increase budget from the government and strengthen collection of money granted, which is not an easy task either.

Secondly, the challenge is to recruit lawyers who provide high quality services with a lower legal fee. To that end, it is necessary to have lawyers understand the significance of the legal aid program which is to secure access to justice for people regardless of their financial ability.

Thirdly we need to disseminate information about the legal aid program and rationalize and speed up the application procedure so that people could use it more easily. According to the survey conducted recently by JLSC, only 8% of Japanese people are aware of the legal aid program. It is necessary to raise the awareness for promoting use of the program.