

**INSTITUTIONALIZED MODEL OF FREE  
LEGAL AID SUPPORTED BY THE CATALAN  
OMBUDSMAN IN SERBIA**

Barcelona, December 2009



# 1. Introduction

Since 2002, the Catalan Ombudsman ([www.sindic.cat](http://www.sindic.cat)), with funding from the AECID -Spanish Agency for International Development Cooperation- ([www.aecid.es](http://www.aecid.es)) and the ACCD -Catalan Agency for Development Cooperation- ([www.cooperaciocatalana.cat](http://www.cooperaciocatalana.cat)), has been sponsoring the institutionalization of a free legal aid model through cooperation projects that have established a system now being maintained with funding from the Serbian administration.

The three projects carried out, which have shared the same focus and aim, are:

■ **PILOT PROJECT IN NIS 2003** (link to project presentation and statistical information):

Spanish version (<http://www.sindic.cat/site/files/73/asistenciajuridicaserbia.pdf>)

Serbian version ([http://www.sindic.cat/site/files/73/Triptic\\_AJG\\_sr.pdf](http://www.sindic.cat/site/files/73/Triptic_AJG_sr.pdf))

■ **FREE LEGAL AID PROJECT IN SERBIA 2004-2007:**

☑ Link to project presentation publication and 2003-2006 statistics ([http://www.sindic.cat/site/files/73/publicacioAJG\\_en.pdf](http://www.sindic.cat/site/files/73/publicacioAJG_en.pdf))

☑ Link to 2003-April 2007 statistics

Spanish-Serbian version ([http://www.sindic.cat/site/files/73/dadesestadistiques2003-2007\\_es.pdf](http://www.sindic.cat/site/files/73/dadesestadistiques2003-2007_es.pdf))

■ **FREE LEGAL AID PROJECT IN VOJVODINA 2008-2009:**

☑ Link to press release of March 2009 and 2008 Legal Advice Service statistics:

Press release for the March 12, 2009 press conference at the seat of the Vojvodina Executive Council

Spanish version ([http://www.sindic.cat/site/files/74/NOTA%20DE%20PRENSA\\_12\\_marzo\\_09\\_DEF.pdf](http://www.sindic.cat/site/files/74/NOTA%20DE%20PRENSA_12_marzo_09_DEF.pdf))

Serbian version (<http://www.sindic.cat/site/files/74/OBAVESTENJE%20ZA%20MEDIJE.pdf>)

Statistics presented at this press conference

Spanish version

<http://www.sindic.cat/site/files/74/Resultados%20castellano.pdf>

Serbian version

<http://www.sindic.cat/site/files/74/Resultats%20serbi.pdf>

- ☑ Link to information posted on Vojvodina Executive Council website (in Serbian):

Project presentation

[http://psloksam.byethost16.com/index.php?option=com\\_content&view=article&id=83&Itemid=61](http://psloksam.byethost16.com/index.php?option=com_content&view=article&id=83&Itemid=61)

Download of documents and forms necessary for in-court representation service management

[http://psloksam.byethost16.com/index.php?option=com\\_content&view=article&id=84&Itemid=64](http://psloksam.byethost16.com/index.php?option=com_content&view=article&id=84&Itemid=64)

- ☑ Link to information posted on Vojvodina Bar Association website (in Serbian):

General information on the project and Legal Advice Service internal regulations <http://www.akv.org.rs/novost.html?id=52>

In-court representation service internal regulations

<http://www.akv.org.rs/novost.html?id=53>

Description and development of the project at 8/14/08

<http://www.akv.org.rs/novost.html?id=54>

In-court representation training seminars

<http://www.akv.org.rs/novost.html?id=50>

- ☑ Link to press release of December 2009 and 2008-2009 Free Legal Aid Service statistics:

Press release for the December 11, 2009 press conference at the seat of the Vojvodina Executive Council

<http://www.sindic.cat/site/files/74/NOTADEPRENSA11diciembre09angles.pdf>

Statistics presented at this press conference

<http://www.sindic.cat/site/files/74/Resultados%20angles%202008%20y%202009.pdf>

## 2. Description and characteristics of implemented system

### ☑ Services included and beneficiaries

This model of free legal aid has its origin in the Spanish system. It is made up of a **legal advice service** in which any citizen addressing the office are counselled in legal matters, free of charge, and an **in-court representation** service. This is a public service paid for by the Administration, meaning that the administration covers the expenses of the work done by an attorney before the courts, to defend the rights of persons without the financial resources to cover the attorney fees, once the citizen accredits the lack of economic solvency.

The legal advice and the in-court representation services are conceived as public services financed by the Serbian administration, and rendered by bar associations, who are assigned the management of both services.

### ☑ Services provider: Bar associations

In the **legal advice services (SOJ)** an attorney from the bar association receives, free of charge and in private, any person who addresses them. The person is legally counselled and informed as to whether their affair requires assignment of an attorney. If not, the person is referred to the institution or organization with competency to solve their problem.

If an attorney's intervention is necessary, in legal advice services, as well as local councils in the case of Vojvodina, the citizen is given an application for **in-court legal representation**. They are assisted in its correct completion, and are required to present the documents accrediting their personal and economic circumstances. All of this documentation is presented to the In-Court Representation Committees, made up of representatives from the bar associations and the administration. These committees propose the designation of an attorney to the bar association, unless they dismiss the application on the grounds that the applicant's income exceeds the economic maximum set by the administration for this appointment or because the case is clearly unsustainable before the courts (it lacks the legal grounds that would make it a case that could be viably tried in court). Citizens may file an appeal against the decision to dismiss their application. There is no right to appeal the decision handed down on this appeal.

### ☑ Characteristics

This free legal aid system rendered by the bar associations is an independent and autonomous service, as established in Article 67 of the Constitution of Serbia. According to the terms of this article, this system ensures independent legal aid, subject to nothing other than respect for the law. In fact, this system guarantees attorneys' independence, and their freedom of expression in court, absolute loyalty to their client and professional secrecy. The bar associations supervise the

ethical principles to be observed by the attorneys as they provide free legal aid, while guaranteeing their independence from public authorities. Documents and decisions relative to management of free legal aid, the rules governing the legal advice and in-court representation services, and the fees for attorneys are the same for all bar associations.

This compensation, which the bar association pays the attorneys who provide their services in this system, voluntarily and in alphabetical order, is as follows: for in-court legal defence, 40 euros; for advising in the Legal Advice Services, 20 euros for 4 hours' work.

### **☑ Forerunning municipal administration and compatibility with legal framework in force**

With the free legal aid system implemented through this project, the Local Councils of Nis, Pancevo, Sabac, Zrenjanin, Prokuplje, Lebane, Vlasotince, Novi Beograd and that of Vojvodina Autonomous Province, in conjunction with the Vojvodina Executive Council:

- have acted before the State itself by establishing a comprehensive, coordinated, appropriate and economically sustainable free legal aid model, which ensures that the public administration fulfils its international obligations on the equal access to justice, an important element in the process of access to the European Union.
- have helped determine the real demand for legal advice and in-court representation services, and provide information that is useful to determine the real costs and quality standards for the free legal aid.
- contribute to demonstrating the full compatibility of the system with the legal framework in force, its adaptation to a small budget and the practically non-existent bureaucracy.

### 3. Institutions participating in the projects and duties assigned

#### ☑ **Síndic de Greuges de Catalunya**

The Síndic de Greuges de Catalunya (Catalan Ombudsman) directs and implements the projects. As a result, the institution contributes personal, material and financial resources to the project. It is a co-financier, along with the Spanish Agency for International Development Cooperation (AECID) and the Catalan Agency for Development Cooperation (ACCD).

#### ☑ **Bar associations**

The bar associations of **Vojvodina, Belgrade, Sabac and Nis** are in charge of organizing and providing the free legal aid services.

#### ☑ **Serbian administration**

On April 14, 2005, the **Parliament of Vojvodina** approved a recommendation addressed to all local councils of this autonomous province for them to establish this model of free legal aid.

In a letter dated June 6, 2005 **the Minister of Public and Local Administrations**, Zoran Loncar, sent a recommendation to all local councils of Serbia proposing this free legal aid system, as it was considered to be of interest for the citizens of Serbia.

The municipal governments of **Nis** (since 2003), **Pancevo, Sabac, Zrenjanin** (since 2005), **Prokuplje, Lebane, Vlasotince** and **Novi Beograd** (since 2006) finance the provision of the legal advice and in-court representation as public services, thus guaranteeing their citizens' right to legal defence.

In **Vojvodina**, the local councils of **Ada, Becej, Bela Crkva, Coka, Mali Idos, Nova Crnja, Novi Becej, Odzaci, Opovo, Sremski Karlovci, Subotica, Zitiste and Titel** (since 2008) and **Kikinda** (since 2009) finance the provision of the legal advice service in accordance with this model. As the legal advice service serves all citizens who address it, regardless of their place of residence in Vojvodina, thanks to its geographic distribution, the service covers the needs of all citizens of Vojvodina.

As of 2010, the Executive Council of Vojvodina will take over financing for the in-court representation service, which was launched in 2009 with financing from the Catalan Ombudsman, for the citizens of all Vojvodina who present their application and fulfil the necessary requisites.

### ☑ **People's Office of the President of the Republic**

Within the Free Legal Aid project in Serbia (2004-2007), the **People's Office of the President of the Republic** sponsored the formalization of collaboration agreements between the Catalan Ombudsman, local councils and respective bar associations, making it possible to implement free legal aid in the municipalities of Sabac, Zrenjanin, Prokuplje, Lebane and Vlasotince, where the People's Office acted as project observer.

### ☑ **Ombudsman of Vojvodina**

The institution acting as observer for the implementation of the Free Legal Aid project in Vojvodina.

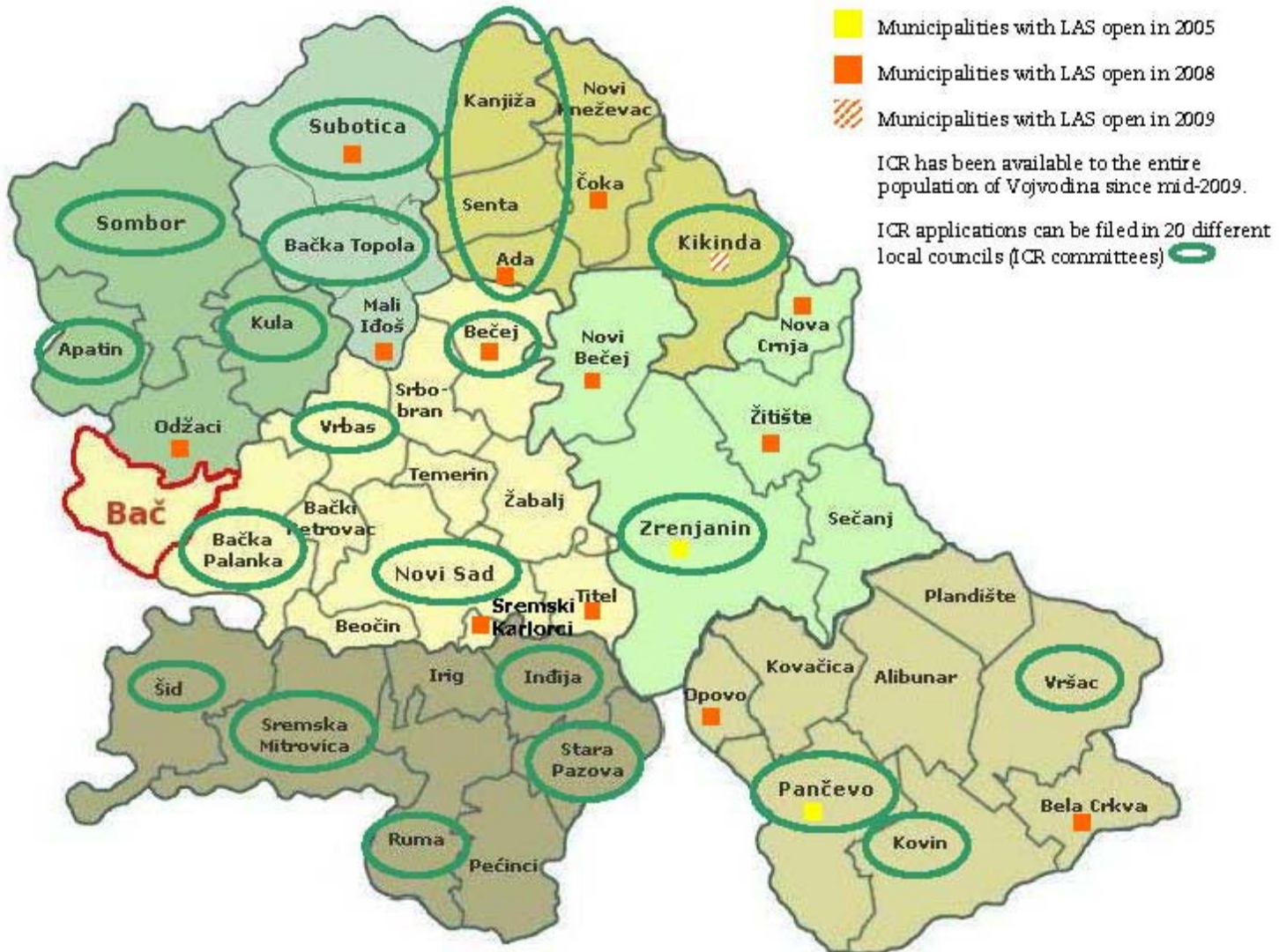
## 4. Where the system has been implemented

The total number of attorneys rendering legal advice and in-court representation services in all of the indicated municipalities is over 300, providing coverage to nearly two fifths (37%) of all of Serbia's population, based on the fact that Vojvodina stands for 27% of the total Serbian population.

### SERBIA



# VOJVODINA



## 5. Supramunicipal scope of the system.

### Operation throughout the entire country of Serbia

Serbian institutions' support for the free legal aid system, the good results indicated by citizens' broad acceptance, the effectiveness of the model for large municipal governments (Novi Beograd, Pancevo, Nis, etc.) as well as those of the rural, more economically challenged region (Prokuplje, Lebane, Vlasotince) and the progressive extension of the model in Serbia formed the basis from which to take a qualitative leap: implementation of the model not on the municipal, but the regional level.

Thus, the Project for Free Legal Aid in the Autonomous Province of Vojvodina, in which the Legal Advice Service is financed by the municipal governments that opt in (Ada, Becej, Bela Crkva, Coka, Mali Idos, Nova Crnja, Novi Becej, Odzaci, Opovo, Sremski Karlovci, Subotica, Zitiste, Titel and Kikinda) was conceived. The in-court representation service is financed by the Vojvodina Executive Council, which means that all citizens of Vojvodina who meet the economic criteria are entitled to free defence in court. This makes for institutional coordination between the Vojvodina Bar Association, the Vojvodina Executive Council, the local councils and In-Court Representation Committees (whose role is to analyze the applications) that is being performed with good results in practice and very low bureaucratic and economic cost.

By proving that the model supported by the Catalan Ombudsman is valid as a comprehensive system applied to a supramunicipal territory, it is also being proven, albeit on a smaller scale, that the system can work throughout Serbia.

The experience in Vojvodina in terms of costs and statistics is clearly a reference in making decisions on the model to implement throughout Serbia.

## 6. Aspects of the regulation by the Right to Free Legal Aid Act to take into account

The in-court representation model implemented in Serbia guarantees citizens lacking economic resources free access to legal representation by an attorney, assigned by a system of shifts. Under the legislation, the citizen can not be guaranteed exemption from paying judicial fees or the costs of expert witnesses. That notwithstanding, in places where this system of in-court representation has been implemented, agreements have been reached with judiciary authorities to avoid payment of fees by citizens eligible for free in-court representation.

We believe that when the right to free in-court defence is regulated throughout Serbia, a guarantee of exemption should be provided to citizens not just of payment of attorney fees, but also the judicial fees or fees of expert witnesses.



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