

## **Resolution (78) 8 on legal aid and advice**

*(Adopted by the Committee of Ministers on 2 March 1978  
at the 284th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Considering that the right of access to justice and to a fair hearing, as guaranteed under Article 6 of the European Convention on Human Rights, is an essential feature of any democratic society;

Considering that it is therefore important to take all necessary steps with a view to eliminating economic obstacles to legal proceedings and that the existence of appropriate systems of legal aid will contribute to the achievement of this aim especially for those in an economically weak position;

Considering that the provision of legal aid should no longer be regarded as a charity to indigent persons but as an obligation of the community as a whole;

Considering that facilitating the availability of legal advice as a supplement to legal aid for persons in an economically weak position is of equal importance in the elimination of obstacles to access to justice,

Recommends the governments of member states to take or reinforce, as the case may be, all measures which they consider necessary with a view to the progressive implementation of the principles set out in the appendix to this resolution;

Invites the governments of member states to inform the Secretary General of the Council of Europe periodically of the measures taken to follow up the recommendation contained in this resolution.

### **Appendix to Resolution (78) 8**

#### *Part I – Legal aid in court proceedings*

1. No one should be prevented by economic obstacles from pursuing or defending his rights before any court determining civil, commercial, administrative, social or fiscal matters. To this end, all persons should have a right to necessary legal aid in court proceedings. When considering whether legal aid is necessary, account should be taken of:

- a. personal financial resources and obligations;
- b. the anticipated cost of the proceedings.

2. Legal aid should be available even where a person is able to pay part of the costs of his proceedings. In that case, legal aid may be available with a financial contribution by the assisted person which shall not exceed what that person can pay without undue hardship.

3. Legal aid should provide for all the costs necessarily incurred by the assisted person in pursuing or defending his legal rights and in particular lawyers' fees, costs of experts, witnesses and translations.

It is desirable that, where legal aid is granted, there should be exemption from any requirement for security for costs.

4. It should be possible for legal aid to be obtained in the course of the proceedings if there is a change in the financial resources or obligations of the litigant or some other matter arises which requires the granting of legal aid.

5. Legal aid should always include the assistance of a person professionally qualified to practise law in accordance with the provisions of the state's regulations, not only where the national legal aid system always of itself so provides, but also:

- a. when representation by such a person before a court of the state concerned is compulsory in accordance with the state's law;
- b. when the competent authority for the granting of legal aid finds that such assistance is necessary having regard to the circumstances of the particular case.

The assisted person should, so far as is practical, be free to choose the qualified person he wishes to assist him. The person so appointed should be adequately remunerated for the work he does on behalf of the assisted person.

6. When considering whether legal aid should be granted, the authorities may:

- a. take into consideration, having regard to the circumstances of the particular case, whether or not it is reasonable for proceedings to be taken or defended;
- b. take account of the nature of the proceedings and, if need be, grant aid only for costs other than those relating to assistance by a qualified person as referred to in Principle 5.

7. The legal aid system should provide for a review of a decision to refuse a grant of legal aid.

8. The responsibility for financing the legal aid system should be assumed by the state.

9. The limits of financial eligibility for legal aid should be kept under review, especially having regard to rises in the cost of living.

10. The legal aid system should provide for the granting of legal aid, in accordance with the principles contained in the present resolution, in any proceedings for the recognition or enforcement of a decision in the state concerned of a decision given in another state.

11. The state should take the necessary steps to bring the provisions of the legal aid system to the attention of the public and other interested parties, particularly those agencies in the state to which potential applicants might turn for help.

### *Part II – Legal advice*

12. The state should ensure that a person in an economically weak position should be able to obtain necessary legal advice on all questions arising out of the matters mentioned in Principle 1, which may affect his rights or interests.

13. Legal advice should be available either free or on payment of a contribution dependent on the resources of the person seeking the advice.

14. The state should ensure that information on the availability of legal advice is given to the public and to those to whom a person in need of legal advice may turn for help.

15. The state should take appropriate steps to see that such information on the legislation of the state as is necessary is available to advice-giving agencies.

16. The state should pay particular attention to the need for legal advice when proceedings may have to be taken in another state.

## **Explanatory memorandum**

### **Introduction**

1. The right of access to justice is an essential feature of any democratic society. The elimination of economic and other obstacles to civil proceedings was the subject of discussion at the 9th Conference of European Ministers of Justice held in Vienna in 1974. Particular attention was given to matters relating to legal aid and advice. In 1974, the Committee of Ministers, acting on the advice of the European Committee on Legal Co-operation (CDCJ), decided to set up a committee of experts on economic and other obstacles to civil proceedings, *inter alia* abroad, to consider the subjects dealt with in the reports and deliberations at the 9th Conference of Ministers of Justice.

2. In accordance with the CDCJ's instructions, the committee of experts gave priority to questions concerning legal aid and advice. It prepared Resolution (76) 5 on legal aid in civil, commercial and administrative matters which was adopted by the Committee of Ministers in February 1976. That resolution dealt with the granting of legal aid to nationals of member states of the Council of Europe and to all natural persons habitually resident in the territory of the state where the proceedings take place. The committee of experts also prepared the European Agreement on Transmission of Applications for Legal Aid, which was opened to signature of member states on 27 January 1977.
3. The committee of experts adopted, in October 1975, an extensive questionnaire on legal aid and advice to which member states were invited to reply. Replies were received in respect of eighteen member states as well as from Canada and Finland, which participated as observers in the committee's work. The Committee of Ministers authorised, in February 1977, the publication of the governments' replies to this questionnaire.
4. The replies contained comprehensive information on both the existing rules in this field and the reforms which were being planned in the various states and they provided a valuable basis for the committee's further work on the subject of legal aid and advice. The committee noted in particular that there were wide divergencies as regards the availability and extent of legal aid in court proceedings. The differences were even more apparent as regards legal advice outside such proceedings. In the committee's opinion, the replies showed clearly that it was desirable to lay down "minimum standards" for legal aid and advice on a European level. The committee considered that the most suitable way to achieve this would be a resolution adopted by the Committee of Ministers which recommended the governments of member states to take or reinforce, as the case might be, all necessary measures with a view to the progressive implementation of a set of principles prepared by the committee experts. It is of course understood that the implementation of these principles must be subject to the availability of the necessary financial resources in the state concerned.
5. The overriding principle behind the resolution is that the provision of legal aid and advice in civil and commercial matters should no longer, as often in the past, be regarded as a charity to indigent persons, but as an obligation of the community as a whole towards persons in an economically weak position.
6. The aim of the resolution is to contribute to the creation or furthering of systems of legal aid and advice in order to ensure that such aid

and advice is available in all appropriate cases. It should, however, be borne in mind that other measures, such as the simplification of procedures are also likely to contribute to the elimination of obstacles to justice. The committee of experts has also been instructed to study concurrently procedures facilitating access to justice.

7. The aim of legal aid and advice is essentially the same, namely to provide legal services for persons of limited means in order to enable them to assert or defend their legal rights. The link between these matters is also borne out by the legislation in several member states in which legal aid and advice form part of the same statutory scheme. Moreover, the existence of an effective legal advice scheme may often eliminate the need for actual court proceedings (see paragraph 30 below).

It has therefore seemed desirable to deal with matters relating to legal aid and advice in a single resolution.

Furthermore, it may be that where a comprehensive legal aid system, as envisaged in the resolution, is beyond the present resources of the state concerned, it could put the emphasis on ensuring that legal advice is available (see principle 12), and on providing court procedures which facilitate access to justice.

8. The resolution deals with legal aid and advice to natural persons and does not cover such aid and advice to legal persons.

### **Commentary on the specific provisions in the appendix to the resolution**

#### *Part I – Legal aid in court proceedings*

##### *Principle 1*

9. This principle sets out one of the basic objectives of the resolution, namely that no one should be prevented by economic obstacles from pursuing or defending his rights before the courts, whether dealing with civil, commercial, administrative, social or fiscal matters. The term “court” should be understood as also including tribunals. This shows clearly that criminal matters fall outside the scope of the resolution. The principle stresses that necessary legal aid should be available as of right. As used in the context of this resolution, the meaning of the term legal aid is different in a number of member states, for example, in common law countries the term always includes the assistance of a lawyer, whereas in others it does not and may include only other costs or both. It is a matter for each member state to lay down in its own laws and regulations the circumstances under which legal aid should be regarded as necessary.

For example, some procedures may be made so simple and inexpensive as to make any legal aid unnecessary, whether in the form of legal representation or by way of exemption or payment of other procedural administrative matters. However, the principle expressly refers to two factors which, subject to the provisions of Principle 6, ought to be taken into account when considering whether legal aid is necessary in a particular case.

10. These factors relate the granting of legal aid to the individual applicant's situation: his financial position and the cost of the contemplated proceedings.

11. The resolution does not attempt to provide a method of determining the financial limits for legal aid or for assessing an individual applicant's financial position. There is a wide divergency in existing schemes both as to limits and as to assessment. Some states operate a system of pre-determined fixed financial limits whereas others define in general terms the conditions for eligibility, and it is for the authority granting legal aid to determine whether or not the requirements are satisfied. Although the financial requirements are to a large degree decisive in determining whether or not a legal aid system achieves its purpose of eliminating the economic obstacles which may obstruct access to justice, the financial conditions for eligibility are to a large extent dictated by the economic conditions and budgetary resources of the country, and this is recognised in this principle. However, it is essential that the financial conditions for eligibility for legal aid should be such as to ensure that it is available to those in need of it and that a reasonable proportion of the population can benefit from it. The financial conditions should not be so rigorous as to require an applicant to sell his home or mortgage his income for years ahead, and so have to live in poverty simply so as to obtain access to the courts. This does not mean that it is unreasonable to require some applicants to borrow the sum required or part of it on reasonable security, if to do so would not cause undue hardship.

12. Some types of proceedings are considerably more expensive than others, and factor *b* recognises that and, where as it may be reasonable to refuse legal aid to a person of modest means where the proceedings are simple and inexpensive, the same person should be eligible where the cost of the proceedings would be considerable.

### *Principle 2*

13. This principle emphasises that legal aid should not be limited only to persons who fall below the poverty line. It should also be available

to persons able to pay only part of the costs of their proceedings. In those cases, the assisted person may be required to pay a financial contribution which should not cause undue hardship. This may, for example, take the form of paying a specific contribution towards the total costs of the proceedings or waiving the obligation to pay certain fees or paying certain incidental expenses (see Principle 4).

### *Principle 3*

14. The object of this principle is to ensure that legal aid covers all the costs necessarily incurred by the assisted person in pursuing and defending his legal rights. In addition to the remuneration of the lawyer (see Principle 5) legal aid should cover, or provide exemption from, the payment of all court costs and other costs connected with court proceedings (fees, taxes, "bailiffs'" costs, costs relating to witnesses and experts, translations, etc.). It is also desirable that legal aid should include payment of the assisted person's costs in attending a hearing in person (travelling expenses and possibly loss of earnings) whenever his presence at the hearing is deemed necessary.

The principle also deals with security for costs because such a requirement may be a serious obstacle to access to justice.<sup>1</sup> The principle therefore recommends states to provide that security should not be taken in those cases where the plaintiff has legal aid. As an alternative solution, the legal aid may, of course, provide the amount of the security.

Special problems may arise with regard to expert evidence and there may be cases in which it is justifiable not to allow the expense to fall upon legal aid funds.

### *Principle 4*

15. This principle recognises the fact that circumstances may change after the proceedings have been instituted, even if the litigant at the outset of the proceedings was not eligible for legal aid. Legal aid may, however, be required at a later stage, for example, if the litigant is obliged to furnish costly expert evidence, or if his own financial conditions deteriorate.

### *Principle 5*

16. This principle is of fundamental importance. It provides that legal aid should always include the assistance of a person professionally

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1. The kind of security referred to in the text is known in many legal systems as *cautio judicatum solvi*.

qualified to practise law in the cases where it is considered necessary that such assistance should be provided: first, where the regulations of the state in which the proceedings take place impose on the parties representation by such a qualified person before its courts; and, secondly, and this may be an innovation, where the authority responsible for granting legal aid finds that, even where such representation is not compulsory under the law, such assistance is necessary having regard to the circumstances of the particular case or the applicant's own situation, especially where this is necessary to establish a balance in relation to the other party if he is represented. It should be noted that the text of the principle takes account in the opening sentence of the situation where national legal aid legislation includes the assistance of a qualified person in every case where legal aid is granted.

It is observed that the regulations of some states provide that legal aid services may be given by both lawyers in private practice and salaried lawyers, for example, in public law offices, while in other states such services are only rendered by lawyers in private practice. The aim of this provision is to make sure that the legally aided person should be assisted by a person who is fully qualified and that he should not have to content himself with, for instance, law students. The fundamental principle is that the legally aided person should be entitled to the assistance of a person having the same qualification as the person normally chosen in the same circumstances by a party not in need of legal aid. This should not be taken generally to exclude an *avocat stagiaire*, where he might otherwise be chosen. It is implicit that, if the applicant has difficulties in finding a lawyer to represent him, there should be a body to whom he could apply for designation of a lawyer.

17. This principle also lays down that the assisted person should, so far as is practical, be free to choose the lawyer he wishes to assist him. This does not in itself imply that the lawyer chosen by the assisted person should be obliged to represent him. Moreover, it is clear that the assisted person's request for a particular lawyer may be refused, if he for example, without valid reason, wishes to be represented by a lawyer practising in another part of the country and this would give rise to unreasonable costs. Furthermore, the lawyer chosen by the assisted person must be authorised in accordance with the national laws and regulations to appear before the court concerned.

18. Under the principle, the lawyer appointed should receive adequate remuneration for the work done on behalf of the assisted person. This provision is of primary importance for the proper functioning of an effective legal aid system. The services rendered by a lawyer merit remuneration,



even if lawyers traditionally have regarded the undertaking of legal aid work as a natural duty for the legal profession. It may also be desirable that, in order to safeguard the interests of the assisted person, and the equality of arms between the parties, the lawyer should receive an adequate remuneration. The reference to adequate remuneration should not be taken absolutely to exclude a system under which the remuneration is paid either as a salary or not directly to the lawyer but to a professional organisation of lawyers, for instance, as a contribution towards a pension fund. The purpose of the provision, however, is not to lay down any rules as to the manner in which the remuneration is to be paid. States should thus be free to provide how the remuneration is paid.

#### *Principle 6*

19. This principle modifies the basic provisions set out in Principle 1 and is meant to balance, for practical reasons, the right of every person in an economically weak position to obtain legal aid. It leaves to the competent authorities the right not to grant legal aid in two types of situation :

- When it is considered, having regard to the particular circumstances, that it is not reasonable for proceedings to be taken or defended. Such a condition for granting legal aid is provided for in many existing legal aid systems and, in particular, in those where the financial requirements for granting legal aid are comparatively generous and therefore a large proportion of the population is eligible for legal aid, with or without a financial contribution by the assisted person. It should be observed, however, that no such condition exists under the legal aid legislation of other states where the only condition as to the substance of the case is that it is not regarded as manifestly unfounded. Under this principle, states are not called upon to introduce such a test as to reasonableness where it does not exist. Moreover, it should also be emphasised that, where an examination of the prospects of success of the intended proceedings is a condition for the granting of legal aid, this examination should not prevent a party from bringing proceedings in a matter which reasonably could be submitted to the courts even if the outcome of the case is uncertain.
- Where the nature of the proceedings, because of the small costs involved or their simplicity or the help available from the court would not justify the granting of aid, especially where it would include a lawyer. This may be particularly applicable in

states where the legal aid system would always include the assistance of a lawyer. However, in this case, if other substantial costs are involved, the emphasis is put on the possibility of granting aid for such other costs.

20. In any event, this provision should not be interpreted as giving total discretion to the authorities to refuse to grant legal aid on the basis of the nature of the proceedings; it provides that, for common sense reasons, the granting of legal aid is not required where it would be of no real advantage to the parties while being a burden on the competent authorities. This may particularly apply to certain administrative proceedings.

*Principle 7*

21. A decision refusing legal aid for specific proceedings implies in many cases that the applicant is debarred from access to justice – in that particular case – as he is not able to bring or defend the proceedings without assistance. In view of the importance of this decision, it is therefore reasonable that there should be a possibility of reviewing the decision. This does not necessarily mean that there has to be an appeal to another body, but the decision may be reconsidered by the same body.

*Principle 8*

22. This principle requires that the responsibility for financing the legal aid system is assumed by the "state". The word "state" does not indicate, however, how the system is financed inside the state concerned, for example, from state or local government funds. The essential is that the community assumes the cost of the legal services and that these are not rendered mainly on a charitable basis by individual or private bodies. If legal aid is provided by bodies or organisations such as trade unions, consumer associations, it could continue to be given without financial contribution from the state. Such contribution is only required in respect of those who would otherwise not be in a position to assert or defend their rights.

*Principle 9*

23. Rises in the cost of living and inflation within the state concerned are generally particularly detrimental to those in an economically weak position. An increase in the cost of court proceedings may also cause

difficulties. It is therefore necessary to keep the limits of financial eligibility for legal aid (see Principle 1.a above) constantly under review in order to ensure that the financial eligibility is not eroded and that the proportion of the population who may benefit from legal aid is not reduced for this reason. It should be observed that the last part of the sentence in Principle 9 applies primarily to legal aid systems operating with fixed income limits.

#### *Principle 10*

24. This principle is based on the fact that there is an increasing possibility in recent years for recognition and enforcement abroad of decisions made by a court or tribunal. It is therefore desirable that a person in an economically weak position can also obtain necessary legal aid for such proceedings. It should be pointed out that provisions, under which a person who has been granted legal aid to obtain a decision can also be granted such aid for the recognition or enforcement of the decision, are included in many bilateral and multilateral agreements, for example, the 1958 Hague Convention on the Recognition and Enforcement of Maintenance Obligations in respect of Children and the 1968 Brussels Convention on the Jurisdiction and Enforcement of Judgements in Civil and Commercial Matters, as well as the draft European conventions on recognition and enforcement of decisions relating to the custody of children and on an international tribunal in matters of custody of children.

25. It is understood that the granting of legal aid for the recognition or enforcement of a foreign decision in the circumstances referred to in this principle is independent of any question of reciprocity.

#### *Principle 11*

26. This principle recognises the fact that it is not sufficient merely to establish a system of legal aid, but that it is absolutely necessary that persons who are eligible for such aid are also informed of their rights in this regard. It should be noted, in particular, that many of those who are in the greatest need of the services available under the scheme are not only economically in a weak position but also socially and culturally handicapped. It is therefore important to disseminate information in such a way that it reaches as many potential beneficiaries as possible.

27. Although important that the public should know of the legal aid system, it is equally important that those who are called upon to render services under the legal aid system should be properly informed and trained in its operation. This information should be kept up to date.

28. Perhaps even more important than the matters referred to in paragraphs 26 and 27, is that intermediary bodies or persons whom potential applicants may first approach (e.g., social services, citizens advice bureaux, local administration, consumer associations, trade unions and religious bodies) should be able to give details as to the requirements to obtain legal aid and how to apply for legal aid.

### *Part II – Legal advice*

#### **General considerations**

29. The principles concerning legal advice call for special consideration. It has emerged from the answers to the questionnaire that there are few common denominators between member states on this point. Although nearly all states have a more or less formalised system of legal aid, the ways in which legal advice is offered, and whether there is any provision to make it available to persons in an economically weak position, differ widely from state to state. Some principles about minimum standards of legal advice are, however, included in the resolution.

30. Legal advice is normally defined as assistance in legal matters outside or prior to court proceedings. A satisfactory system of legal advice, however, should not be limited to cases where court proceedings are actually envisaged. A large number of legal problems coming within the scope of the resolution, for example, concerning family problems, contracts, inheritance, taxes, etc, can easily be settled if the person involved is able to get the necessary legal information from a qualified person. Also, where the legal problem is of such a nature that it would normally involve a reference to a court in order to have it settled, legal advice at an early stage might eliminate the need for actual court proceedings.

31. It is important to emphasise that legal advice, particularly where it may avoid or be an alternative to court proceedings, is a much less expensive prospect for states desiring to improve the legal position of persons in economically weak circumstances. This factor might be of special interest to states who are in the process of introducing new systems of legal aid and advice.

32. Legal advice, as opposed to legal aid, needs not necessarily be given by professional lawyers but might, in a number of cases, be given satisfactorily by persons who are not professional lawyers but who are familiar with the problems on which they are giving advice.

33. The diversity of arrangements under which legal advice is given in member states makes it difficult to require that these schemes should

necessarily be financed from public funds. It is, however, of fundamental importance that the state assume the responsibility of ensuring that the provision of legal advice within the state functions satisfactorily, and that such advice actually reaches those who are in need of it.

*Principle 12*

34. As noted in the introduction, it seems reasonable to put an obligation on the state to see to it that legal advice can be obtained when there seems to be a real need for it.

It is a fact that, in many member states, in contrast to a formal legal aid system, certain aspects of legal advice are undertaken by private organisations, for example, consumer bodies, trade unions or organisations of students working on a voluntary basis. Where the provision of legal advice by such organisations is sufficient in quantity and quality to meet the needs of the public, the principle requires nothing further from the state as to the establishment of a legal advice system.

Like legal aid, legal advice is especially necessary for persons who cannot afford to pay the full cost of a lawyer's assistance, and though legal advice may well be available to all persons irrespective of their financial situation, it seems reasonable only to put an obligation on the state in respect of persons in an economically weak position, but no distinction should be made between nationals and foreigners.

*Principle 13*

35. The giving of legal advice to persons in an economically weak position will normally involve less expense than legal aid for court proceedings. Whether the advice is given as part of a comprehensive legal aid and advice scheme or on a voluntary basis, the principal consideration should be that all individuals are able to obtain advice, preferably as soon as is possible after the problem arises. They should not be inhibited from obtaining this advice because of the cost of obtaining such advice, which may well avoid further difficulties for them. The principle recognises, however, that in the field of legal advice it may be reasonable to require a contribution appropriate to the means of the person seeking the advice. The assessment of this contribution, if any, and the consent to give legal advice should be with a minimum of formalities. However, if the individual is to be encouraged to seek advice it is of importance that he should, wherever possible, know in advance of seeking the advice what the maximum cost should be and, consequently, this principle should be read in conjunction with Principle 14.

36. The principle does not seek to lay down any provision as to payment of the person giving the advice. It may be without remuneration; it may be remunerated only by the payment made by the person seeking advice where such a payment would not cause undue hardship, or it may be, as is the case where the advice is given as part of a comprehensive legal aid scheme, some payment by the state.

*Principle 14*

37. This principle invites states to ensure that the provisions for legal advice are made known to the public and perhaps more urgently to those who may act as intermediaries in referring the person in need of advice to those persons able to give it. It is plainly linked to the provisions of Principle 11 which relate to information on legal aid. For many people in an economically weak position, the major difficulty with any legal problem is in knowing how to obtain help. In some cases, they may not even realise that the problem is one which requires legal assistance. For this reason, it is desirable that states should ensure that those to whom deprived persons may turn for help in the first instance should be aware of the provisions within the states for legal advice. Even where such advice is to be given on a voluntary basis by lawyers or other organisations and is not organised by the state, only the state has the resources and organisation to bring the provisions for legal advice to the attention of the public.

*Principle 15*

38. This principle recognises that, where legal advice is provided, the state has a responsibility to those bodies giving aid and advice and to the public to see that information is available which will, so far as possible, enable up-to-date and accurate advice to be given. Such information is particularly desirable as regards all changes in the current legislation. It is not intended that this should be an onerous burden as in many cases where the advice is given, for example, by lawyers or trade unions, they will themselves take all the steps necessary to ensure that the advice they give is accurate and up to date. However, there will in some states be organisations which perform a useful function in giving legal advice and which do not have the facilities or financial resources to ensure that they keep abreast of changes in the law. Where this is the case, this principle invites states to take steps to see that information is available to these bodies. This may take the form of copies of legislation, official reports, explanatory notes and memoranda produced

by the state authorities or other bodies where these are produced for the information of the public. It is evident that, in many cases, it will not be sufficient simply to publish the law in an official gazette. If a person in an economically weak position is to be able to assert or defend his legal rights, especially under new legislation in the state, and is to be put on the same footing as those who might be able to afford to pay to obtain the relevant information, it is clear that the agencies which give advice to such economically weak persons should be in possession of the most up-to-date and accurate information. As the basis of the resolution (see paragraph 4) is that legal advice is to be an obligation of the community to those in an economically weak position, it must be for the state to take such steps as appear to it appropriate to satisfy this principle. In states where public funds are available to enable persons of limited means to consult a lawyer, the information given in accordance with this principle may be limited to providing those concerned with a general reference to legislative texts and documents which are accessible to the public together with an indication where they may be obtained.

*Principle 16*

39. This principle invites the state to pay particular attention to the need for legal advice when the person seeking advice may envisage proceedings in another state. The fact of a possible need to take proceedings abroad implies exceptional difficulties, and therefore puts the individual concerned in a particularly weak position, and requires special help. This international aspect of the legal advice problem is likely to have increasing importance because of progressing international communication. The obligation of the state will depend on the efficiency of the existing legal advice machinery. However, where no such machinery exists, the state should pay particular attention to these problems in order that reasonable assistance may be provided. Such advice may lead to seeking legal aid in the state where the proceedings are to be taken in accordance with the European Agreement on the Transmission of Applications for Legal Aid.