



## From January 5, 2017 all internally displaced persons shall be eligible to receive free legal aid from the State

### WHAT? WHERE? WHEN? and HOW? is explained by the CF "Right to Protection"

On December 21, 2016 the Verkhovna Rada of Ukraine approved the Law of Ukraine "On Higher Council of Justice"<sup>1</sup>, final and transitional provision of which contain changes, which are important for all internally displaced persons (hereinafter – IDP) and human right organizations. From the date when the mentioned law becomes effective, i.e. from January 5, 2017 all IDPs, as well as the persons, who applied for obtaining the IDP certificates, received the right to free secondary legal aid.

The team of the BF "Right to Protection" analyzed what it means for over 1,5 million IDPs.

#### ***What is free legal aid?***

It is a legal aid, which is fully or (in certain cases) partially provided at the expense of the State Budget of Ukraine, local budgets and from other sources.

Free legal aid includes the provision of the following legal services:

- provision of legal information, consultations and explanations on legal issues;
- drafting motions, complaints and other documents of legal nature;
- drafting the procedural documents;
- representation of interests of a person in courts, other state authorities, local self-government bodies, before other persons;
- ensuring protection of a person from prosecution (in criminal cases);
- provision assistance to persons related to ensuring such person's access to secondary legal air and mediation.

#### ***What is the difference between primary and secondary free legal aid?***

Primary (hereinafter – FPLA)	Secondary (hereinafter – FSLA)
can be provided to:	
all persons, located in the territory of Ukraine	vulnerable categories of citizens, as stipulated by Article 14 of the Law of Ukraine "On Free Legal Aid"
includes the provision of the following services:	
1) provision of legal information;	1) protection;

<sup>1</sup> <http://zakon3.rada.gov.ua/laws/show/1798-19/print1452600717758334>, published in the newspaper "Holos Ukrayiny" dated 04.01.2017 — No. 1





2) provision of consultations and explanations on legal matters;  3) drafting motions, complaints and other documents of legal nature (except for procedural documents);  4) provision assistance to persons related to ensuring such person's access to secondary legal aid and mediation.	2) representation of interests of persons eligible for FSLA in courts, governing authorities, before other persons;  3) drafting documents of procedural nature.
is provided by:	
1) executive authorities; <b>2) local self-government authorities;</b> <b>3) individuals and legal entities of private law;</b> 4) specialized institutions.	1) FSLA centers (see addresses below); 2) attorneys, included to the Register of Attorneys, providing the FSLA.

***To which FSLA are entitled IDPs and in which cases?***

	A person has just applied for the IDP certificate to the citizen's welfare department	A person has valid IDP certificate
<b>What issues can be explained within the framework of FSLA</b>	on the issues, related to obtaining the IDP certificate, till the moment of its receipt	on any issues
<b>What kind of aid can be received</b>	1) representation of interests of persons in courts, governing authorities, before other persons;  2) drafting documents of procedural nature.	1) representation of interests of persons in courts, governing authorities, before other persons;  2) drafting documents of procedural nature;  3) protection.

***Where should IDP apply to receive the FSLA?***

To the Center on provision of Free Secondary Legal Aid (hereinafter - the FSLA Center), operating in the territory of the relevant location, where a person actually resides (address of the residence registration, specified in passport document shall not be taken into attention).\*

-----  
 \*Addresses of the FSLA Centers can be found by link: <http://legalaid.gov.ua/ua/local-centres>





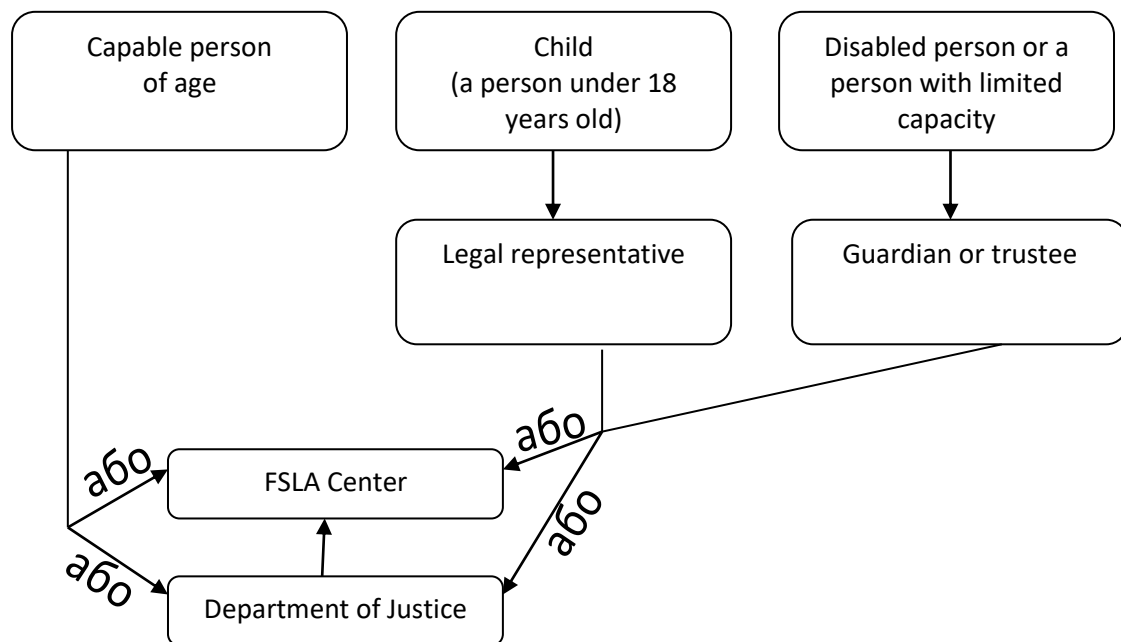
The FSLA Center shall take decision on provision of the FSLA to a person or the refusal from its provision or termination of its provision. The FSLA Center shall also ensure drafting procedural documents for applicants, ensure representation of applicants' interests in courts, governing authorities, before other persons, as well as issue powers of attorney to confirm the attorney's powers for such representation.

***What is the procedure for applying for the FSLA?***

Capable person of age based on own will shall apply to the FSLA Center or the Department of Justice at the place of residence and attach to his/her application a IDP Certificate or a confirmation that a person submitted a request to citizen's welfare department for obtaining the IDP certificate.

To represent the interests of a child-IDP his/her legal representatives (parents, adopters, foster parents, adoptive parents, foster tutors, guardians, trustees, representatives of institutions, operating as guardians or trustees) should apply to the FSLA Center or the Department of Justice.

If disabled person or a person with limited capacity require the FSLA, a guardian or a trustee of such person should apply on behalf of such person's name.





Within 10 days from the date of application, the FSLA Center shall take a decision on provision of legal aid to a person or on refusal from its provision and notify such person of its decision in the written form, as well as the court, governing authority, at which such person's interests shall be represented.

After taking decision on provision of the FSLA, the Center shall appoint an attorney, who shall actually provide a legal aid. While appointing an attorney, his/her specialization, working experience, workload, complexity of cases, in which such attorney participates, shall be taken into attention.

Authority of such attorney shall be confirmed by the FSLA Center's power of attorney.

### ***Why an IDP can be refused in provision of the FSLA?***

If a person has no reasons to receive the FSLA, i.e.:

- 1) a person is not an IDP and failed to provide an application form for obtaining the IDP certificate to citizen's welfare department, and is not related to another vulnerable category, as stipulated by Article 14 of the Law of Ukraine "On Legal Aid";
- 2) a person provided false statements or documents in order to obtain the FSLA;
- 3) a person's requirements regarding protection and renewal of his/her rights are illegible;
- 4) a person received the FSLA earlier on the same matter;
- 5) a person used all national legal remedies in a case, in respect of which s/he applied for obtaining of the FSLA.

In this case the FSLA center shall take a decision to refuse in provision of FSLA and send a copy of such decision to a person with explanation of the procedure for challenging such decision (to a court) and if a person used all national legal remedies - the procedure for applying to international court institutions or international organizations, to which Ukraine is a member or a participant.

### ***What is termination of FSLA provision?***

Provision of FSLA shall be terminated in respect of a person, if:

- 1) a person terminated to be an IDP, or relate to any vulnerable category, as stipulated by Article 14 of the Law of Ukraine "On Legal Aid";
- 2) the fact of provision by a person of false statements or documents has been established;
- 3) a person enjoys the protection of another defense counsel(s) in a case;
- 4) a person used all national legal remedies in a case;
- 5) an attorney or the FSLA center fulfilled all obligations before the applicant.

If a person in order to receive the FSLA provided false statements or documents and the FSLA was terminated, such person shall be obligated to reimburse actual expenditures for the provision of such FSLA to the State.





***Is it possible to replace an attorney providing FSLA?***

Yes, it is possible only in the event of:

- 1) attorney's sickness;
- 2) improper fulfillment by the attorney of his/her obligations under the agreement.
- 3) failure to observe the provision of FSLA thereby;
- 4) excluding of an attorney from the Register of Attorneys, providing the FSLA.

However! while replacement of attorney, the continuity of FSLA provision is ensured.

