

Triple A for Citizens

Subject: Guidelines on Triple A – Towards a shared concept of access to information, advice and active help services

INTRODUCTION

The Triple A project aims to encourage non-governmental organisations to provide information and advice to citizens on their rights in the Western Balkans and Turkey. The activities encompassed by the collective term “information, advice and active help services”¹ span a multitude of assistance provided to citizens².

The purpose of these guidelines is to develop a common understanding of what amounts to Triple A services³. Given that this is a relatively open-ended term, the partners believe it is beneficial for implementation of the project to set up a common understanding of what we mean when we use it, the principles on which it rests, its objectives, methods of delivery and role in society and governance. These guidelines are the product of the collaborative efforts of the partners.

I. General principles

Triple A are provided in response to peoples’ needs to find information concerning their rights as citizens and to empower citizens in exercising those rights. It encompasses a multitude of services provided to citizens to enable them to access information on their rights as well as obtain advice and active help in exercising them.

They find their base in the more general principle of the rule of law. Their objective can be said to enhance access to justice, which the UN Development Programme has defined as the ability of people who suffer a grievance to seek and obtain redress through formal or informal institutions of justice⁴.

¹ In the remainder of these guidelines the term *Triple A* or *services* will be used to refer information, advice and active help services.

² In these guidelines, the word ‘citizen’ as used in these guidelines is used in the broader sense of an inhabitant or resident of a particular country.

³ In the original Triple A project proposal, it was stated that “a memorandum of understanding will be adopted on the basis of the Triple A to explain the conceptual framework and shared values” (at page 16). Upon reflection, the term “memorandum of understanding” is not necessarily the right instrument, since this is better suited to establishing a partnership for a project or programme and is usually followed by a contract or more formal agreement. Instead the partners favour guidelines setting out their shared understanding of what is meant by information, advice and active help services.

⁴UNDP, “Access to Justice Practice Note” (2004) available here:

http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/access-to-justice-practice-note/Justice_PN_En.pdf

All the European states, which have acceded to the European Convention on Human Rights and similar United Nations' declarations, have accepted the principle of equality before the law and access to legal aid. The EU Charter of Fundamental Rights recognises that access to justice must be effective⁵ and recognises the right to good administration⁶. The Charter therefore provides a good foundation upon which the principles, rights and values on which Triple A should be based.

The project foresees the services as encompassing three broad categories: (1) facilitating access to information to promote awareness of rights and both formal and informal means of redress among citizens; (2) providing advice to citizens to make the law comprehensible to them thereby addressing informational barriers to justice; and (3) active help that offers free or low-cost personalised assistance and, if need be, tailored legal advice or representation before the courts.

Triple A is based on the principle that everyone has the right to be informed of their rights. In line with international and European human rights standards, the services provided should be accessible to all regardless of social, political, ethnic, confessional, linguistic or similar distinctions. It is particularly important that the service should be accessible to those most in need as a result of having a modest income or being in vulnerable situations because of a disability, social exclusion, or other reason. The services should be provided free of charge to those in need. The Triple A should be confidential, independent and impartial. All citizens should receive the same level of service and assistance. This is what Citizens' Advice (UK) describes as its FAIR strategy (fair, accessible, inclusive, relevant)⁷.

⁵ Article 47 on the right to an effective remedy and a fair trial states:

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

⁶ Article 41 on the right to good administration declares:

Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

2. *This right includes:*

- (a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;*
- (b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;*
- (c) the obligation of the administration to give reasons for its decisions. ...*

⁷ Citizens' Advice (UK) service-wide equality and diversity policy (2004) is available here: http://www.citizensadvice.org.uk/citizens_advice_service_equality_and_diversity_strategy.pdf

II. The idea of the one-stop shop

In some cases, assistance provided to citizens may be targeted towards particular groups in society: women, elderly people, children, patients, disabled people, refugees or migrants, or other vulnerable groups. Assistance that targets specific groups may cover all the needs of that particular group in the population. For example, assistance may focus on protecting against violence or human trafficking. It may also be highly targeted towards the users of a particular utility (for example gas consumers) or take the form of consumer advice in general. Indeed there are close links between the consumer rights movement and Triple A. While these reflect the many different forms which such assistance may take, they target specific beneficiaries.

Services foreseen by this project, are different from approaches which target specific groups or particular issues. They may work alongside or in partnership with the more specialised organisations which deliver services to specific target groups or on specific issues. Triple A on the other hand have the objective of equipping everyone with better knowledge of their rights and the ways of enforcing them.

The holistic approach represented by Triple A is based on the awareness that people, in a complex modern society, are often frustrated by not knowing where to turn to for assistance, or are sent from one service to the next. Moreover the questions they have about tax, social benefits or housing are often linked to each other. They therefore expect to find in one place – a one-stop shop – at least a first answer to all their questions. In order to help those most in need, such a multidisciplinary approach is required since social exclusion can have many causes. For these services to command public trust they must be close at hand, locally based, and supported by the community. In order to make the principle of equality before the law - which provides a basis for Triple A – a reality, it is evident that they should extend to all parts of the country. A start has to be made in specific localities but the long-term aim should be a network of one-stop shops providing national coverage.

III. Access to information, advice and active help in practice

Triple A and the one-stop shop are ways of responding to the legal needs of citizens, but their organisation in practice presents a number of challenges:

- The need to find at least a first answer to one's questions in one place can lead to the supply of a generalist but superficial service.
- The one-stop shop can discourage specialisation because no single adviser can necessarily cover all aspects of citizens' rights in depth.

- The service is free and therefore relies on support from the tax payer and/or private donations. The problem here is that fundraising for specialised services or specific issues may be relatively easier than more general services.

To maximise the advantages of the one-stop shop and minimise the impact of these challenges, it should help to make a clear distinction among the different stages in what should be regarded as a “cascade system” rather than a single service. The Triple A should be understood as providing citizens with access to information, advice and active help along the following lines:

- Access to information. The public expects to find a service open at convenient times and accessible. People will want to get help in the way they choose: by phone, face-to-face or at a distance through self-help materials (paper guides or electronic sources). The answer may be simply to provide the right address and contact details. Face-to-face services are most important for vulnerable groups and those who suffer the more important grievances. This first stage should however essentially be one of diagnosis and rapid response. Either there is a quick answer or the citizen is directed towards a self-help solution (this could represent as much as half the inquiries). Or if the problem is more difficult, either the citizen is referred to another service or an appointment is made with an advisor who can provide advice and/or active help.
- Advice. The extent to which it is necessary to ask the citizen to move on to the next stage of advice and arrange an appointment with an advisor depends on the nature of the problem. More specialised personnel such as lawyers or trained volunteers will not necessarily be present at all times, but may come in at fixed times arranged in advance. In terms of the principles of citizens’ advice and access to legal aid, the service should focus on those most in need⁸.
- Active help. This next stage may involve writing a letter on the citizen’s behalf to the administration, a supplier of another service, or possibly even advising the citizen about how to make an appeal or represent themselves in court. Sometimes this process can be difficult, as with those who have complex or multiple needs. In the current economic crisis, financial advice and helping people with serious debt problems is an expanding area. In some instances the only way forward will be to take the case to a specialised tribunal or general court. Assistance may extend to putting a file together for the lawyer taking the case. Legal representation would depending on the country be provided by lawyers working for state-run or independent legal aid organisations, those offering pro bono services, or alternatively pro se projects that train people to represent themselves

⁸ Citizens’ Advice in its service strategy 2010-2014 has adopted the criteria that can assist in determining who is in greatest need (page 9), which is available here:
http://www.citizensadvice.org.uk/pdf_citizens_advice_service_strategy_2010-2014.pdf

or even paralegal-based organisations that train and employ people to serve as interlocutors with officials of the justice sector.

IV. Record-keeping: traceability and outcomes

In the cascade system, the response to demand may be organised in different ways with increasing degrees of specialisation, going from the general to the particular needs of the individual. It is important however that accurate records are kept so that the process is traceable and continuous through all stages of the cascade system, so that the citizen does not have at each stage to start from scratch and explain the problem all over again. It is also important for the accountability of the services towards the public and funders. Records are essential to show qualitatively and quantitatively what the service has achieved. The annual report of a citizens' advice service would normally include the numbers of inquiries, their breakdown according to categories of the population and main areas of concern. The reports would also contain examples of particularly striking cases and follow up, advocacy or litigation.

In this process, there are a number of probably feasible outcomes for citizens. The process of accessing first level information and advice about one's rights is often preventative: the result is to access entitlements or avoid additional expense which is not necessary. Sometimes citizens use advice services too late, after the problems have occurred. They may be able to assist in claiming compensation for lost benefits, negotiating manageable terms for repaying debts or avoiding threats of homelessness and loss of employment.

There are also advantages for the administration in that better-informed and advised claimants can take a burden off their shoulders. It should be stressed however that a well-functioning system of citizens' advice should not become a pretext for reducing the responsibilities and accountability of the public administration. To solve everyday citizens' problems reliable services and a reasonably well-functioning administration are both necessary.

V. Campaigning and advocacy

Providing assistance to citizens is an important service in its own right, but it should not be seen as an end in itself. Preventative or problem-solving action can help solve individual problems, but there is a general interest in using this experience to seek solutions for those who do not approach the service. The experience of Triple A can be analysed and turned into evidence that can serve as the basis for advocating for changes in law and policy. As Citizens' Advice (UK) put it in their strategy for 2010-2014 "We will use the experiences clients share with us anonymously, to campaign for improvements in the policies and practices that affect peoples' lives." As mentioned in the project proposal, advice services carry strong credibility

with politicians and policy-makers because of their link to the citizens and their evidence through real life stories of what is working or not. The decision-makers receive input from interest groups arguing a particular viewpoint on proposed legislation or policy. The advantage of “Triple A services” is that they bring to the process the experience and stories of ordinary people. They make a link between public policy and its impact on everyday life. This approach is also appealing to the media, which in turn gives the services more credibility with the decision-makers.

Bringing together and aggregating the evidence from Triple A can serve different purposes that show:

- How an existing law is working and whether national or local authorities are meeting their obligations towards citizens;
- What can be learned from citizens for the purposes of new legislation, changes to existing legislation, or better enforcement;
- In other cases, by bringing together evidence from citizens, the service providers can campaign against corruption and maladministration;
- The evidence collated can also form the basis for preparing test cases in court or intervening in on-going court proceedings.

The extent to which services can be followed up effectively by campaigning and advocacy depends on the traceability of records from the start of the process and a well-functioning system of selection of significant cases and reporting.

VI. Working in partnership

The European Union - in particular the European Commission - has a track record of supporting Triple A for the contribution it can make towards the process of reform. Citizens who are more aware of their rights can encourage better administrative practices and become watchdogs for the process of reform and the application of new laws. There is however a limit to the amount of support which can be expected from the European Union or other international donors. These services are shaped by peoples’ demands which relate to the impact of domestic legislation in areas such as welfare benefits, taxation, housing, health or education. The volume of questions and complaints which relate to EU laws or have an international dimension because of migration is likely to be in the order of 10%, or too low as a viable basis on which to build a rights advice movement. Creating local and national partnerships is therefore a condition for success.

Complementary partnerships should be established:

- At the local level the ideal form of partnership is where civil society organisations targeting specific issues or sections of the population come together to create a general Triple A network;
- In turn this requires partnership with the local or city authorities, this can mean that local politicians should be involved in the process to convince them of the benefits of Triple A to the functioning of the local economy and society;
- At national level, a key issue is to identify which government agencies should be the interlocutor for the Triple A providers since ministries of justice, social affairs, and other line ministries are all concerned to a certain extent. Also concerned are cross-cutting services providing information to the public, or working on the modernisation of the administration;
- A number of national organisations and professional bodies are natural partners for Triple A: the ombudsman, legal aid bodies, bar association, faculties of law, consumer and specific law reform advocacy groups, trade unions.

CONCLUSION

The project which brings our organisations together will result in a mapping of the situation in each of the target countries, a cross-learning process and feasibility study followed by the selection of 10 pilot projects and the creation of a wider network through a regional network of Triple A providers. Our shared aim is that this should be much more than just a one-off project. The objective is that beyond the life-time of the project, the foundations will exist for creating a sufficiently strong network in each project country with local branches or partners throughout the country.