

CZU 347.921.8:342.7

<https://doi.org/10.52507/2345-1106.2026-1.19>

LEGAL AID AS AN ELEMENT OF SOCIAL CITIZENSHIP AND AN INSTRUMENT OF ACCESS TO JUSTICE

SUHOV Vadim,

Doctor în drept, lector universitar,

Universitatea de Stat din Comrat

E-mail: vadim_suhov@yahoo.com

<https://orcid.org/0000-0001-8699-7216>

GÎLCA Constantin,

Doctor în științe economice, lector universitar,

Universitatea de Studii Europene din Moldova

<https://orcid.org/0000-0002-8079-3199>

SUMMARY

This article offers a theoretical analysis of state-guaranteed legal aid through the lens of social citizenship and access to justice. Drawing on T. H. Marshall's conception, the study argues that legal aid constitutes a structural element of citizenship within a social state, rather than merely a technical instrument for procedural equality. The analysis examines legal aid's historical development within the welfare state and its transformations under neoliberal governance. Particular attention is paid to effectiveness limits of contemporary systems and the risk of reduction to minimal conditional support. The article argues for reconsidering legal aid within a broader conception of access to justice, encompassing prevention of legal exclusion, strengthening of legal capacity, and development of pluralistic support models. Legal aid is analyzed as an indicator of social citizenship and justice accessibility in contemporary legal systems.

Key words: access to justice, individual legal capacity, legal exclusion, social citizenship, social rights, state-guaranteed legal aid.

ASISTENȚA JURIDICĂ CA ELEMENT AL CETĂȚENIEI SOCIALE ȘI INSTRUMENT AL ACCESULUI LA JUSTIȚIE

SUHOV Vadim,

PhD in law, university lecturer,
Universitatea de Stat din Comrat

E-mail: vadim_suhov@yahoo.com

<https://orcid.org/0000-0001-8699-7216>

GÎLCA Constantin,

PhD in economics, university lecturer,
University of European Studies from Moldova

<https://orcid.org/0000-0002-8079-3199>

REZUMAT

Acest articol oferă o analiză teoretică a asistenței juridice garantate de stat prin prisma cetățeniei sociale și a accesului la justiție. Pornind de la concepția lui T. H. Marshall, studiul argumentează că asistența juridică constituie un element structural al cetățeniei în cadrul statului social, mai degrabă decât un simplu instrument tehnic pentru egalitatea procedurală. Analiza examinează dezvoltarea istorică a asistenței juridice în cadrul statului bunăstării și transformările sale sub guvernarea neoliberală. O atenție deosebită este acordată limitelor de eficacitate ale sistemelor contemporane și riscului reducerii lor la forme minimale de sprijin condiționat. Articolul pledează pentru reconsiderarea asistenței juridice în cadrul unei concepții mai largi a accesului la justiție, care cuprinde prevenirea excluziunii juridice, consolidarea capacității juridice și dezvoltarea modelelor pluraliste de suport. Asistența juridică este analizată ca un indicator al cetățeniei sociale și al accesibilității justiției în sistemele juridice contemporane.

Cuvinte-cheie: accesul la justiție, asistența juridică garantată de stat, capacitatea juridică individuală, cetățenia socială, drepturile sociale, excluziunea juridică.

In contemporary legal systems, the right of access to justice is regarded as one of the essential conditions for the realisation of the principle of the rule of law and for the effective exercise of other fundamental human rights and freedoms. In legal doctrine, it is often described as “the right that makes all other rights possible”, since, in the absence of a genuine ability to bring a claim before a court or another dispute-resolution mechanism, any legal guarantee remains purely declaratory [5, pp. 182-185]. At the same time, despite the formal recognition of access to justice in international instruments and national constitutions, the effective possibility of resorting to legal mechanisms continues to be socially differentiated and is largely conditioned by an individual’s economic, cultural and institutional position.

One of the central instruments through which the state has traditionally sought to compensate for structural inequalities in access to law is legal aid, in particular in the form of free or subsidised legal assistance. Historically, this institution emerged in response to the recognition that formal equality before the law does not, in itself, ensure real equality in the capacity to defend one’s rights. As M. Cappelletti and B. Garth emphasised, “equal access to justice requires not only the formal opening of the courthouse doors, but also the removal of the social and economic barriers that prevent effective participation in legal proceedings” [5, p. 185].

Nevertheless, state-guaranteed legal aid is rarely analysed in the academic literature as an autonomous socio-legal category. More often, it is examined either through a strictly procedural lens, as an element of the

guarantees of a fair trial, or from an institutional perspective, focusing on models of organisation and financing. Although such approaches allow for the identification of certain structural deficiencies within legal aid systems, they fail to capture their deeper significance for the individual’s status within the legal and social order of the state. The absence of a unified approach to the legal status of legal aid as an element of social citizenship leads, in practice, to fragmented regulation and to the uneven application of mechanisms of access to justice.

Within the theory of social citizenship, access to justice acquires a fundamentally different dimension. In the present study, the concept of social citizenship is employed as an analytical tool for examining the legal nature of legal aid, rather than as an exhaustive normative model for the regulation of access to justice. T. H. Marshall’s classical conception links citizenship not only to civil and political rights, but also to social rights, which ensure the “real possibility of enjoying the freedoms formally guaranteed” [6, pp. 10-11]. In this context, the right to defence and to the assertion of one’s interests under conditions of equality constitutes not merely a procedural guarantee, but an element of citizenship status itself. As Marshall notes, the right of access to justice is distinguished from other civil rights by the fact that it “represents the right to protect and assert all other rights through an appropriate legal procedure” [6, p. 11].

Developing this line of analysis, H. Sommerlad argues that state-guaranteed legal aid in welfare states has become one of the key mechanisms for the

institutionalisation of social citizenship. In her view, even legal aid systems limited in scope played a fundamental role in extending the inclusive character of citizenship in the second half of the twentieth century, insofar as they symbolised the state's recognition of its responsibility to eliminate legal forms of social isolation [9, pp. 346-348]. In this sense, state-guaranteed legal aid was not conceived as a form of charity, but as an element of public policy aimed at ensuring the equal participation of citizens in the legal order.

However, in the context of the transformation of the welfare state and the spread of neoliberal models of governance, state-guaranteed legal aid increasingly loses its status as a social right and is reinterpreted as a minimal compensatory benefit. In contemporary practice, it is often reduced to a narrowly targeted instrument intended exclusively for the most vulnerable groups of the population and operating under rigid budgetary and procedural constraints. As a result, the focus shifts from ensuring genuine access to justice towards the formal compliance with minimum standards of procedural equality.

This discrepancy between the normative model and the practical realisation of state-guaranteed legal aid is particularly evident in several contemporary legal systems. Thus, an analysis of the functioning of the free legal aid system in Serbia demonstrates that, even following its legislative institutionalisation, effective access to justice remains difficult to achieve due to insufficient implementation and limited institutional coverage [8, pp. 64-67]. Similar trends can be observed in other jurisdictions, where state-guaranteed legal aid is formally recognised as a right but operates in practice as a residual element of social policy.

Under these conditions, a fundamental research question emerges: should state-subsidised legal aid be viewed exclusively as a technical instrument for ensuring procedural guarantees, or does it represent a structural element of social citizenship, without which the very idea of access to justice loses its substantive content? This article proceeds from the premise that state-guaranteed legal aid cannot be reduced to an auxiliary function of the legal system. On the contrary, its status, scope and institutional design reflect deeper transformations in the understanding of the role of the state, the nature of citizenship, and the limits of social responsibility in the field of justice.

The purpose of this theoretical and critical article is to reconsider state-guaranteed legal aid as an element of social citizenship and, at the same time, as an instrument of access to justice. The study analyses the evolution of the concept of free legal aid, its relationship with the development of the welfare state, and the limits of its effectiveness in the context of contemporary institutional and socio-economic transformations. Such an approach makes it possible to move beyond a strictly sectoral analysis and to examine state-guaranteed legal aid as an indicator of the condition of social citizenship and of the degree of accessibility of justice in modern legal systems.

Social citizenship and access to justice: theoretical foundations. An understanding of access to justice as a fundamental legal phenomenon is not possible without

reference to a broader theory of citizenship and to the social function of law. Within the classical liberal tradition, the right of access to a court and to legal defence was conceived primarily as an element of civil rights, intended to secure the formal equality of individuals before the law. However, as social structures became more complex and social inequalities deepened, it became evident that the formal recognition of rights does not, in itself, guarantee their effective realisation. It is within this context that the concept of social citizenship emerges, allowing for a reconsideration of the role of access to justice and legal aid within the system of individual rights and obligations.

The classical conception of social citizenship, developed by T. H. Marshall, is grounded in the idea of the progressive expansion of the content of citizenship—from civil rights to political rights and, subsequently, to social rights. Within this model, civil rights encompass not only personal liberty, freedom of expression, or property rights, but also a specific right of access to justice, which Marshall identifies as being “of a different order from the others”, insofar as it ensures the possibility of protecting and realising all other rights “under conditions of equality and through an appropriate legal procedure” [6, p. 11]. Access to justice therefore appears not merely as one right among others, but as a structural element that guarantees the functioning of the entire system of citizenship.

Against this background, justice and access to justice cannot be conceived exclusively as neutral institutional mechanisms, but rather as legal institutions with a constitutive social function, integrated into the system of the state's public obligations. They are, on the contrary, socially conditioned and reflect existing relations of power, resources, and opportunities within a given society. As M. Cappelletti emphasised, the right of access to justice represents “the most fundamental right in contemporary law”, since, in its absence, the legal system is unable to fulfil its function of guaranteeing rights [5, p. 185]. At the same time, the same authors pointed out that effective access to justice is determined not only by the existence of courts and procedures, but also by the individual's capacity to participate meaningfully in them—a capacity closely linked to social position, level of education, and available economic resources.

Socio-legal theory highlights that, at this level, a rupture emerges between the formal and the material dimensions of law. Formal equality before the law presupposes the existence of identical legal opportunities for all subjects, yet material inequality leads to the systematic exclusion of certain social groups from the legal sphere. As a result, law begins to function as a mechanism for the reproduction of social inequalities rather than as an instrument for overcoming them. In this sense, access to justice acquires a pronounced social dimension and becomes an indicator of the real content of citizenship within a given state.

H. Sommerlad pertinently observes that, under the conditions of the welfare state, legal aid was institutionalised precisely in response to this problem. In her view, the introduction of state-guaranteed legal aid systems amounted to a recognition that, in the absence of

active state intervention, formally equal legal procedures would in practice remain inaccessible to a significant part of the population [9, p.p. 347-348]. Within this framework, legal aid was not conceived as a private service, but as a public resource aimed at the inclusion of socially vulnerable groups within the legal order.

A central element of this theoretical construction is the understanding of law as an institution with a constitutive social function. Law does not merely regulate behaviour, but also contributes to the formation of social roles, statuses, and normative expectations. In this context, the possibility of having recourse to law and of benefiting from qualified legal assistance becomes an integral part of the citizen's identity as a subject capable of defending his or her interests in relations with the state and with other private actors. The absence of such a possibility effectively amounts to a partial loss of citizenship status and to the placement of the individual in a position of legal marginality.

At the same time, social citizenship is not a static category, but one subject to transformations driven by changes in the economic model, the role of the state, and dominant ideological orientations. In the context of neoliberal reforms, a reassessment of the social function of law occurs alongside a contraction of the sphere of the state's public responsibility. As a consequence, access to justice is increasingly interpreted as an individual task, while state-subsidised legal aid is regarded as an exception admissible only with respect to the most vulnerable categories. Such an approach undermines the very logic of social citizenship, as it reintroduces law into the sphere of formal equality while disregarding the material conditions of its realisation.

From a theoretical perspective, this signifies a shift from an inclusive model of citizenship towards a model of conditional participation, in which access to law becomes dependent on the individual's economic autonomy. Within this paradigm, state-guaranteed legal aid loses its status as a social right and is transformed into an instrument of minimal compensation, intended to mitigate—without eliminating—the structural barriers to access to justice. Consequently, a paradoxical situation arises: legal aid is formally maintained within the system of legal guarantees, yet in practice it ceases to fulfil its function of ensuring real equality among citizens.

Thus, a theoretical analysis of social citizenship makes it possible to treat access to justice and legal aid not as secondary elements of the legal system, but as essential indicators of the social character of the state and of the effective content of citizens' rights. In this context, state-guaranteed legal aid appears not merely as a technical instrument, but as a structural element of social citizenship, upon whose condition depends the capacity of the legal system to fulfil its integrative and protective function. It is precisely this understanding that forms the foundation of the critical analysis of contemporary legal aid models and of their capacity to ensure authentic access to justice.

Legal aid within the welfare state system. The formation of state-guaranteed legal aid as a stable institution is inseparably linked to the development of the welfare state and to changing conceptions of the role of

the state in ensuring equality and social justice. In the early stages of the development of legal systems, assistance provided to individuals lacking the means to defend their rights was predominantly charitable and corporatist in nature and was perceived as a moral obligation of certain members of the legal profession rather than as a public function. It was only with the institutionalisation of the welfare state that legal aid gradually came to be understood as an element of social policy and as an expression of the state's positive obligations in the field of access to law.

Historical and legal analysis demonstrates that the transition from charitable forms of assistance to state-guaranteed legal aid was driven by an awareness of the limits of formal legal equality. As M. Breger emphasises, in conditions of increasing regulatory complexity and growing individual dependence on legal procedures, "effective access to courts increasingly requires professional legal representation", thereby transforming legal aid into an object of public resource allocation [4, pp. 283-286]. In this sense, legal aid begins to be perceived as a specific type of social good, comparable to education or healthcare, rather than as an exception to the general rule of market-based service provision.

In welfare states, legal aid is institutionalised as part of a broader system of social rights. It becomes an instrument for compensating social inequalities and a mechanism for integrating vulnerable groups into the legal order. It is precisely in this context that legal aid acquires the character of a social right, oriented towards ensuring a "real, rather than illusory, possibility of benefiting from rights enshrined in legislation" [9, p. 348]. At the same time, the state assumes responsibility not only for financing the relevant services, but also for creating the institutional conditions necessary to ensure their accessibility and quality. This understanding of legal aid as a social right is reflected in the structure of rules governing eligibility, funding, and the institutional obligations of the state in the field of access to justice.

At the same time, models of state involvement in the provision of legal aid vary significantly depending on historical, political, and economic context. Comparative analysis allows for the identification of several typological approaches—ranging from liberal models oriented towards minimal state intervention to statist and social-democratic models that presuppose an active role for public institutions. As comparative legal studies rightly point out, the choice of a particular model reflects not only budgetary priorities, but also conceptions of the social function of law and the acceptable limits of state responsibility [11, pp. 160-162].

Despite differences in institutional design, all models of legal aid within the welfare state are based on a common premise: in the absence of state intervention, the market for legal services reproduces social inequality. Legal aid is therefore conceived as a corrective mechanism intended to neutralise the effects of economic differentiation in the sphere of access to justice. This premise, however, is subject to progressive erosion in the context of the transformation of the welfare state and the spread of managerial approaches inspired by neoliberalism.

At the end of the twentieth century and the beginning of the twenty-first century, state-guaranteed legal aid increasingly became the object of reforms aimed at reducing public expenditure and enhancing “efficiency” through standardisation and targeting. Under these conditions, a reassessment of the very nature of legal aid takes place: it is progressively perceived less as a universal element of social citizenship and more as a narrowly specialised support measure intended exclusively for the most disadvantaged categories of the population. As H. Sommerlad observes, such reforms are accompanied by a discursive shift in which legal aid comes to be regarded not as a right, but as an instrument for managing social exclusion [9, pp. 356-358].

Critical analysis demonstrates that such a transformation has far-reaching consequences. Reducing state-guaranteed legal aid to a minimal set of services leads to the loss of its capacity to compensate for the structural barriers to access to justice. Moreover, the formal maintenance of legal aid institutions alongside the contraction of their scope of application and the quality of services creates an illusion of social protection that is not accompanied by genuine opportunities for citizens. In this sense, subsidised legal aid increasingly fulfils a symbolic function—demonstrating the state’s commitment to the principle of equality—rather than effectively ensuring its realisation.

Of particular importance in this context is the relationship between state-guaranteed legal aid and other instruments of social policy. Within the welfare state, legal aid cannot be analysed in isolation from the system of social protection, education, and the overall institutional design of the justice system. As M. Barendrecht emphasises, legal aid alone is rarely sufficient to guarantee a fair outcome if it is not complemented by accessible procedures and effective dispute resolution mechanisms, since “a court without a lawyer is often more valuable than a lawyer without a court” [3, p. 15].

Thus, subsidised legal aid within the welfare state system does not constitute an autonomous institution, but rather an element of a complex mechanism of social inclusion and legal integration. Its evolution reflects broader transformations in the understanding of the state’s social responsibility and the limits of social citizenship. The diminishing role of state-guaranteed legal aid, or its reduction to a minimal benefit, indicates not so much technical deficiencies within the legal system as a transformation of the very idea of the welfare state and a reassessment of the state’s obligations towards the citizen in the field of access to justice.

Legal aid as an instrument of access to justice: limits of effectiveness. Despite the central place that legal aid occupies in contemporary discourse on access to justice, its mere existence does not, in itself, guarantee the achievement of substantive justice or the equal participation of citizens within the legal system. Both at the theoretical and empirical levels, the distinction between legal aid as a formally available institution and its actual capacity to overcome the structural barriers that impede the effective exercise of the right to defence has become increasingly evident. This distinction makes it

possible to address the limits of the effectiveness of legal aid and necessitates a critical reconsideration of its role within the justice system.

Classical studies on access to justice have emphasised that legal aid constitutes only one of several possible instruments for overcoming legal inequality. As early as the work of M. Cappelletti and B. Garth, it was noted that the expansion of access to legal representation does not eliminate institutional and procedural constraints where dispute-resolution mechanisms remain complex, costly, and socially alienating [5, pp. 190-193]. In this sense, legal aid risks being transformed into a compensatory measure that masks systemic deficiencies of the justice system rather than remedying them.

One of the key factors limiting the effectiveness of legal aid is its institutional dependence on the professional corporation of lawyers. In most legal systems, the provision of legal aid is carried out predominantly through members of the legal profession, a fact that, on the one hand, ensures a high level of professional standards, but, on the other hand, entails significant costs. Research in the sociology of the legal profession demonstrates that the monopoly of lawyers over court representation is often accompanied by rising service costs and reduced flexibility in the forms of legal assistance, particularly in categories of cases with high social sensitivity [7, pp. 767-770].

Criticism of professional monopoly is not based on a denial of the importance of qualified legal assistance, but rather on the recognition of its limited capacity to address the full diversity of the population’s legal needs. Empirical data indicate that a substantial proportion of legal problems are everyday, latent, and pre-litigation in nature, requiring legal information, counselling, and mediation rather than formal judicial representation. In these areas, the traditional model of legal aid proves insufficiently effective and, in many cases, inaccessible to socially vulnerable groups.

Against this background, the academic literature increasingly focuses on alternative forms of legal assistance, including the activities of paralegals and non-governmental organisations. Research shows that paralegals operating at the level of local communities are capable of effectively reducing barriers to access to law through proximity to beneficiaries, flexibility of intervention, and an orientation towards preventive and extra-judicial methods of rights protection [2, pp. 1108-1112]. At the same time, their activities often prove to be more accessible and socially acceptable than formalised legal services provided by lawyers.

Nevertheless, the integration of alternative forms of legal assistance into official justice systems encounters significant normative and institutional constraints. In many legal orders, the role of paralegals is limited to advisory functions, while their participation in procedural acts is either prohibited or strictly regulated. As a consequence, the potential of these actors to enhance access to justice remains only partially realised, and the legal aid system retains a pronounced hierarchical character.

An additional factor restricting the effectiveness of legal aid lies in its fragmented and selective nature.

Contemporary systems of free legal aid are generally based on strict eligibility criteria and rigid material scope limitations, which result in the exclusion of significant categories of individuals who, although they do not formally meet the established thresholds, are objectively unable to defend their rights independently. Analysis of practice demonstrates that such limitations transform legal aid into an instrument of minimal social protection rather than into a universal mechanism of access to justice [8, pp. 65-66].

From a theoretical perspective, this may lead to the substitution of the objective of ensuring equality in access to law with the task of administering limited resources. As a result, state-guaranteed legal aid increasingly functions as an element of administrative control rather than as a means of expanding citizens' civic capacities. This process is accompanied by the standardisation of services, a reduction in the time allocated to individual cases, and an orientation towards quantitative efficiency indicators, with negative consequences for the quality of legal protection and for levels of trust in justice institutions.

Finally, it must be taken into account that legal aid is not capable of compensating for the structural dysfunctions of the legal system itself, related to excessive legislative complexity, procedural formalism, and asymmetries of power between the citizen and the state. Under such conditions, even qualified legal representation does not always guarantee a fair outcome. As M. Barendrecht emphasises, concentrating resources exclusively on legal aid, without the parallel simplification of procedures and enhancement of the accessibility of judicial mechanisms, leads to a situation in which "the lawyer becomes involved in a system that is not oriented towards solving citizens' problems" [3, p. 16].

Accordingly, an analysis of the limits of the effectiveness of state-guaranteed legal aid allows for a conclusion regarding its dual nature. On the one hand, it remains an indispensable instrument for compensating social inequalities and an important element of access to justice. On the other hand, its potential is significantly constrained by institutional, professional, and structural factors that extend beyond the legal aid system itself. Awareness of these limits constitutes a necessary condition for a subsequent theoretical reconsideration of legal aid and for the identification of more comprehensive models of ensuring access to justice that move beyond the traditional paradigm centred exclusively on the legal profession.

The crisis of social citizenship and the transformation of legal aid. The current state of the institution of legal aid cannot be adequately understood outside the broader context of the transformation of social citizenship and the reconsideration of the role of the state in guaranteeing social rights. Since the end of the twentieth century, most legal systems have experienced a persistent erosion of the classical welfare state model, accompanied by a reduction in public social obligations and a transfer of responsibility for the realisation of rights onto the individual. These developments have a direct impact on access to justice

and on the status of legal aid as an element of social citizenship.

From a theoretical perspective, the crisis of social citizenship manifests itself in the weakening of the link between formal citizenship status and the real possibilities of participation in social and legal institutions. Whereas, within the post-war welfare state model, social rights were conceived as an intrinsic component of citizenship, intended to secure the material conditions for the exercise of civil and political rights, in the context of neoliberal transformation they are increasingly interpreted as conditional and dependent on economic efficiency [9, pp. 349-352]. As a consequence, access to law and to justice begins to be perceived not as a collective responsibility of the state, but as an individual task, the resolution of which is shifted onto the citizen.

In this context, state-guaranteed legal aid loses its original socially inclusive meaning. It ceases to function as a universal mechanism for ensuring equal access to justice and is transformed into a residual social guarantee addressed exclusively to the most vulnerable categories of the population. As R. Abel demonstrates, such a reduction of legal aid leads to its transformation into an instrument of "poverty management" rather than a means of eliminating legal exclusion [1, pp. 480-483]. In this way, legal aid comes to serve not so much the ideal of equality as the objective of minimising the social risks associated with the total exclusion of certain groups from the legal system.

This process is accompanied by a shift in the discursive foundations of subsidised legal aid. Whereas it was previously legitimised through concepts such as social justice and equal citizenship, contemporary discourse is dominated by the language of efficiency, rationalisation, and budgetary expediency. Within this framework, state-guaranteed legal aid is assessed primarily in terms of cost-benefit considerations, rather than by reference to its contribution to the realisation of social citizenship. As a result, the focus shifts from the quality and accessibility of legal protection towards quantitative indicators and criteria of administrative management of legal aid systems.

Of particular importance is the fact that the transformation of state-guaranteed legal aid occurs simultaneously with the increasing complexity of legal regulation and the growing dependence of individuals on professional legal expertise. This generates a structural paradox: on the one hand, the need for legal assistance is increasing, while on the other hand, its institutional forms are being narrowed. Consequently, a significant proportion of citizens find themselves in a situation of "formal citizenship", in which legal rights are recognised but cannot be effectively realised in practice. Such a situation undermines trust in the legal system and fosters persistent forms of legal alienation.

Comparative analysis of contemporary legal orders confirms the general character of these tendencies. Research shows that even in states with formally developed systems of free legal aid, significant gaps persist in ensuring genuine access to justice. In particular, analysis of the Serbian model highlights the fact that the

legislative recognition of the right to free legal aid is not accompanied by adequate institutional and financial mechanisms for its implementation, which confers upon this right a largely nominal character [8, pp. 66-68]. Similar problems can be observed in other states, where legal aid is formally integrated into the system of social rights but operates in practice under conditions of limited accessibility.

In a broader theoretical dimension, the transformation of legal aid reflects a modification of the nature of the relationship between the state and the citizen. State-guaranteed legal aid ceases to be an expression of the state's solidaristic responsibility for ensuring legal equality and is increasingly conceived as temporary support granted under restrictive conditions. This indicates a transition from a model of social citizenship to a model of conditional or differentiated citizenship, in which access to justice becomes a prerogative dependent on the individual's socio-economic position.

From the perspective of legal theory, this shift has systemic consequences. The weakening of the institution of state-guaranteed legal aid undermines the very idea of law as a universal regulator accessible to all members of society. In the absence of effective mechanisms of legal support, law loses its integrative function and becomes an instrument that predominantly serves the interests of those who possess sufficient resources to use it. In this sense, the crisis of legal aid does not represent an isolated problem of social policy, but rather a symptom of a deeper crisis of social citizenship and of the public role of law.

Thus, the transformation of subsidised legal aid under conditions of the welfare state crisis indicates a reconsideration of the foundations of access to justice. Deprived of its status as an element of social citizenship, legal aid increasingly functions as a limited and conditional support mechanism, incapable of fully compensating for structural inequalities in access to law. Understanding these processes constitutes a necessary stage for the development of new conceptual approaches to ensuring access to justice that move beyond the traditional framework of the social compensatory model.

Reconsidering the role of legal aid: theoretical orientations and alternative approaches. The crisis of social citizenship and the identified limits of the effectiveness of traditional models of state-guaranteed legal aid necessitate a conceptual reconsideration of this institution. In conditions where legal aid increasingly functions as a minimal compensatory measure, it becomes evident that the restoration of its socially inclusive potential is not possible without revising the dominant understandings of access to justice and of the role of the state in securing it. Theoretical analysis demonstrates that legal aid cannot be conceived as an isolated institution, existing autonomously from the institutional design of justice and from social policy as a whole.

Contemporary access to justice doctrine increasingly points to the limits of an approach focused exclusively on expanding legal aid in the form of individual legal representation. As M. Barendrecht emphasises, the concentration of resources on lawyer-based assistance in

individual cases constitutes "the most expensive and structurally least effective strategy" in the absence of parallel procedural simplification and the development of alternative dispute resolution mechanisms [3, pp. 13-16]. In this sense, state-guaranteed legal aid must be viewed as part of a broader ecology of access to law, encompassing legal information, legal education, and institutionally accessible forms of dispute resolution.

One of the central theoretical reference points in the reconsideration of state-guaranteed legal aid is the shift in emphasis from post factum protection of rights towards preventive legal inclusion. Access to legal information and to basic legal knowledge is capable of significantly reducing the need for formalised legal aid and of preventing the escalation of legal conflicts. Studies show that legal illiteracy represents one of the most persistent factors of legal exclusion, which is why the removal of informational barriers must be regarded as a distinct component of access to justice policy [10, pp. 104-106].

In this context, particular importance attaches to the development of multilateral models of legal assistance that combine professional legal representation with the activities of paralegals, mediators, and non-governmental organisations. Such models allow for the differentiation of forms of legal support according to the nature of the legal problem and its degree of complexity. As research demonstrates, the involvement of paralegals and community advisers is effective in addressing everyday legal problems and contributes to reducing the social distance between the legal system and citizens [2, pp. 1110-1114].

From a theoretical perspective, this approach is closely linked to the idea of strengthening individual legal capacity (legal empowerment), within which access to justice is understood not only as the possibility of benefiting from professional assistance, but also as the individual's ability to navigate the legal sphere autonomously and to defend his or her interests. Such a perspective presupposes the abandonment of a paternalistic model of legal aid and the recognition of the active role of the citizen in the process of protecting his or her rights. At the same time, the state retains its essential function in creating the institutional conditions necessary for the realisation of these capacities, including through funding, normative regulation, and mechanisms for quality control of legal assistance.

A significant theoretical challenge concerns the relationship between universality and targeting in legal aid provision. On the one hand, the limited resources of the state necessitate a certain degree of selectivity; on the other hand, excessive targeting undermines the very idea of social citizenship and transforms subsidised legal aid into a form of conditional social support. In this context, part of the doctrine emphasises the need to preserve a universal core of legal aid capable of ensuring a minimum level of access to law for all citizens, regardless of their socio-economic status [9, 358-360].

Reconsidering the role of legal aid also entails revising the criteria used to evaluate its effectiveness. Assessing state-guaranteed legal aid exclusively through quantitative indicators—such as the number of cases, the

cost of services, or the speed of their provision—fails to reflect its social significance and its contribution to the realisation of equal citizenship. A more appropriate approach is one that takes into account the impact of legal aid on citizens' capacity to exercise their rights, on levels of trust in the legal system, and on the degree of legal inclusion of socially vulnerable groups. Such a perspective makes it possible to restore the normative dimension of state-guaranteed legal aid as an element of social citizenship, rather than viewing it merely as an administrative service.

From a theoretical standpoint, this implies integrating legal aid into a broader conception of access to justice, oriented towards the elimination of structural barriers rather than their partial compensation. Within this model, legal aid does not constitute an end in itself, but one of several instruments that complement institutional reforms of justice, the development of alternative procedures, and the expansion of legal information among the population. Only in such a context can legal aid regain its status as an authentic element of social citizenship and as an effective instrument of access to justice.

Accordingly, theoretical orientations concerning the reconsideration of state-guaranteed legal aid point to the need to move beyond a strictly instrumental understanding of this institution and to reintegrate it within the social theory of law. Legal aid must be conceived as part of a complex policy of legal inclusion, reflecting the values of social citizenship and oriented towards ensuring real, rather than merely formal, access to justice.

Conclusions. The theoretical and critical analysis conducted in this article supports the conclusion that legal aid occupies a far more complex and fundamental place within the legal system than is usually assumed in strictly procedural or institutional approaches. It cannot be reduced solely to a technical instrument for ensuring equality of arms in judicial proceedings or to an auxiliary element of the justice system. On the contrary, state-guaranteed legal aid constitutes a structural element of social citizenship, reflecting the substantive content of the relationship between the state, law, and the citizen.

The central theoretical foundation of this conclusion lies in the understanding of access to justice as a precondition for the realisation of all other rights and freedoms. As T. H. Marshall pertinently observed, the right of access to justice occupies a special position, insofar as it ensures the possibility of protecting and asserting all other rights "under conditions of equality and through an appropriate legal procedure" [6, p. 11]. In this context, legal aid represents not merely a means of participation in legal proceedings, but a mechanism of inclusion of the individual within the legal order and a confirmation of his or her status as a citizen.

The historical evolution of legal aid demonstrates that its institutionalisation was closely linked to the formation of the welfare state and to the recognition of the state's positive obligations in ensuring equality. Within this model, legal aid was conceived as a social right, oriented towards eliminating structural barriers to access to law and compensating for social inequalities. However, an

analysis of contemporary trends shows that, under conditions of welfare state transformation, this function of legal aid is gradually being eroded.

The crisis of social citizenship, accompanied by the reduction of social guarantees and the strengthening of individualistic approaches to the realisation of rights, leads to the reduction of subsidised legal aid to a minimal and conditional form of support. It increasingly functions as a residual element of social policy, oriented towards managing social exclusion rather than overcoming it [1, pp. 480-483]. As a result, the formally preserved right to legal aid loses its capacity to ensure genuine access to justice and is transformed into a guarantee of predominantly symbolic value.

The analysis of the limits of the effectiveness of state-guaranteed legal aid shows that its potential is constrained by institutional, professional, and structural factors. The professional monopoly of the legal profession, the fragmented nature of free legal aid systems, strict eligibility criteria, and the orientation towards quantitative efficiency indicators all diminish the capacity of legal aid to fulfil its function of social balancing. Moreover, an exclusive focus on individual representation fails to eliminate systemic problems of justice related to procedural formalism, legislative complexity, and asymmetries of power between the citizen and the state [3, pp. 13-16].

Under these conditions, reconsidering the role of state-guaranteed legal aid becomes not merely desirable, but necessary. Theoretical analysis demonstrates that restoring its significance as an element of social citizenship is possible only through the integration of legal aid into a broader conception of access to justice. Such a conception must include the development of accessible legal information, legal education, alternative dispute resolution mechanisms, and the recognition of the role of non-governmental and non-professional actors in the provision of legal support [2, pp. 1110-1114].

The central conclusion of this research is that state-guaranteed legal aid should not be regarded as an end in itself or as a universal solution to the problem of access to justice. It represents only one element of institutional design, the effectiveness of which depends on the social context, the model of the state, and the nature of citizenship. Reducing this form of assistance to an administrative service undermines its normative significance and contributes to the further erosion of social citizenship.

Finally, it may be concluded that state-guaranteed legal aid functions as an indicator of the condition of the legal system and of the level of the state's social responsibility. Where it retains its status as a social right and is integrated into a comprehensive access to justice policy, law fulfils its inclusive and protective function. Conversely, where legal aid is reduced to a minimal and conditional form of support, access to justice becomes merely formal, and citizenship partially loses its social content. From this perspective, the analysis of legal aid as an element of social citizenship has not only theoretical, but also normative relevance, offering benchmarks for the evaluation and reform of legal mechanisms of access to justice. For this reason, the

further development of the theory and practice of state-guaranteed legal aid requires not cosmetic reforms, but a

conceptual reconsideration of its place within social citizenship and the contemporary rule of law.

Bibliographic references:

1. ABEL, R. L. Law without politics: Legal aid under advanced capitalism. *UCLA Law Review*, 1985, 32(3), 474–642.
2. ADIPUTRA, M. R., UTAMI, S. Existence and position of paralegal in legal assistance and provision of legal aid in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 2025, 28(1), 1101–1131.
3. BARENDRECHT, M. “Legal aid, accessible courts or legal information? Three access to justice strategies compared” in *Global Jurist*, 2011, Vol. 11: Iss. 1 (Topics), Article 6.
4. BREGER, M. J. Legal aid for the poor: A conceptual analysis. *Notre Dame Law Review*, 1982, 57(2), 282–322.
5. CAPPELLETTI, M., GARTH, B. *Access to justice: The newest wave in the worldwide movement to make rights effective*. Milan: Sijthoff & Noordhoff, 1978.
6. MARSHALL, T. H. *Citizenship and social class*. Cambridge: Cambridge University Press, 1950
7. MOORHEAD, R., SHERR, A., PATERSON, A. Contesting professionalism: Legal aid and nonlawyers in England and Wales. *Law & Society Review*, 2003, 37(4), 765–803.
8. NOVAKOVIĆ, M. Free legal aid as an instrument of the right to access to justice: The basic notions of the legal concept, the history of its development and its implementation in Serbia. *e-Publica*, 2025, 12(2), 52–71.
9. SOMMERLAD, H. Some reflections on the relationship between citizenship, access to justice, and the reform of legal aid. *Journal of Law and Society*, 2024, 31(3), 345–368.
10. SUHOV, V. Mechanisms and strategies for ensuring universal access to legal information and assistance: The experience of the Republic of Moldova. *The Annals of “Dunărea de Jos” University of Galati. Legal Sciences. Fascicle XXVI*, 2024, 7(2), 102–112.
11. SUHOV, V. Modele de participare a statului la furnizarea asistenței juridice gratuite. *Dreptul, serie nouă*, 2025, 36(5), 159–172.
12. Arseni, I., Sosna, A. *Legal regulation of reproductive health and assisted reproductive technologies in the Republic of Moldova*. International Research Congress (Conference). Turkey, Istanbul, September 19–20, 2023, pp. 383–388.
13. Capșa, T., Sosna, B., Sosna, A. *Development of constitutional and other legal means for eliminating violence and harassment in the sphere of labor*. Kyiv, In: “European Perspectives”, 2025, No. 4, pp. 189–197.
14. Capșa, T., Sosna, B., Zaharia, S., Frunză, Iu., Micu, V., Babici, B. *Labor Law of Moldova*. Scientific and Methodological Manual, 2nd edition, revised and supplemented. Germany, 2026, 701 p., ISBN 978-620-9-47938-0.