

**CONTROLLING OFFICER'S REPLY**

**S-CSO003**

**(Question Serial No. S012)**

Head: (94) Legal Aid Department

Subhead (No. & title): (-) Not Specified

Programme: (1) Processing of Legal Aid Applications

Controlling Officer: Director of Legal Aid (Chris YT CHONG)

Director of Bureau: Director of Administration

Question:

Further to Reply Serial No. CSO027 -

1. Regarding legal aid cases, the Department mentioned at the meeting that the number of those related to judicial review (JR) cases involving non-refoulement claims ranged from 61 to 86 while the amount of expenditure involved ranged from \$25 million to \$36 million in the past 5 years. Please provide a detailed breakdown.
2. Apart from legally-aided JR cases involving non-refoulement claims, please set out in a table the details of other JR cases with legal aid granted in the past 5 years, including the numbers of such cases, case numbers, case outcomes, parties responsible for the payment of costs and the amounts payable, the executive departments, grounds for application and law firms involved (and the counsel they engaged).

Asked by: Hon KAN Wai-mun, Carmen

Reply:

1. The number of legal aid applications in respect of judicial review (JR) cases (including those related to non-refoulement claims), the number of legal aid certificates granted and the relevant legal aid expenditure in the past 5 years are as follows:

<b>Year</b>	<b>Number of applications (number of applications related to non-refoulement claims in brackets)</b>	<b>Number of legal aid certificates granted (number of certificates related to non-refoulement claims in brackets)</b>	<b>Legal aid expenditure on JR cases with legal aid certificates granted in the respective year <sup>1</sup> (legal aid expenditure on cases related to non-refoulement claims with legal aid certificates granted in the same year in brackets) (\$ million)</b>
2020	359 (216)	82 (61)	23.0 (12.1)
2021	450 (326)	84 (70)	15.5 (9.4)
2022	487 (392)	93 (80)	11.7 (5.1)
2023	454 (341)	80 (74)	4.0 (2.2)
2024	559 (365)	100 (86)	5.6 (1.5)

Note 1: The legal proceedings in some cases (especially those with legal aid granted in recent years) are still ongoing and the amount of legal aid involved in cases with legal aid certificates granted may be subject to adjustment.

The legal aid expenditure on JR cases (including those related to non-refoulement claims) in the past 5 financial years as mentioned by the Legal Aid Department (LAD) at the meeting is set out below:

<b>Financial year</b>	<b>Legal aid expenditure on JR cases <sup>2</sup> (legal aid expenditure on cases related to non-refoulement claims in brackets) (\$ million)</b>
2019-20	37.6 (15.3)
2020-21	34.0 (12.8)
2021-22	24.1 (11.1)
2022-23	35.9 (15.1)
2023-24	26.9 (11.5)

Note 2: The legal aid expenditure on JR cases is the total expenditure on legally-aided JR cases in the respective year, including the expenditure on JR cases where legal aid certificates were not granted in the same year.

2. The number of legal aid applications in respect of JR cases not related to non-refoulement claims (hereinafter referred to as “**other JR cases**”), the number and percentage of legal aid certificates granted, and the amount of legal aid involved in the past 5 years are tabulated below:

Year	Other JR cases			
	Number of legal aid applications	Number of legal aid certificates granted	Percentage of applications with legal aid certificates granted	Amount of legal aid involved in cases with legal aid certificates granted in the same year <sup>3</sup> (\$ million)
2020	143	21	15%	10.9
2021	124	14	11%	6.1
2022	95	13	14%	6.6
2023	113	6	5%	1.8
2024	194	14	7%	4.1

Note 3: The legal proceedings in some cases (especially those with legal aid granted in recent years) are still ongoing and the amount of legal aid involved in cases with legal aid certificates granted may be subject to adjustment.

The outcome of other JR cases with legal aid certificates granted in the respective year and the proceedings having been concluded in the past 5 years and its percentage in such cases are as follows:

Year	Percentage of cases with outcome in favour of the legally-aided person <sup>4</sup>	Percentage of cases with outcome against the legally-aided person	Percentage of cases not pursued <sup>5</sup>
2020	29%	57%	14%
2021	42%	42%	16%
2022	42%	50%	8%
2023	100%	0%	0%
2024	83%	17%	0%

Note 4: The figures include cases in which:

- (1) the judgment was in favour of the aided person, including partly favourable ones;
- (2) precedent was set by the court subsequent to the grant of legal aid, which was favourable to the case of the aided person;
- (3) relief was given to the aided person by the opponent (government department/public organisation) before conclusion of the legal proceedings;
- (4) policy amendment was made by the opponent (government department/public organisation) so that relief could be obtained by the aided person who therefore did not have to continue the legal proceedings; and
- (5) judgment in favour of or partly in favour of the aided person was given by the court after an appeal was lodged.

Note 5: The figures include cases in which:

- (1) the aided person terminated or did not continue the proceedings; and
- (2) LAD discontinued the legal aid.

LAD does not maintain information on the specific grounds raised in other JR cases and the amount of costs payable to other government departments.

In addition, subject to the provisions of the Legal Aid Ordinance (Cap. 91), LAD shall not disclose, without the aided persons' consent, information on individual aided persons, including the case number of their legally-aided proceedings, the opponents involved and the particulars of their legal representatives.

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