



Legal Aid in the Netherlands

a broad outline - 2015

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Legal Aid in the Netherlands

This brochure, issued by the Legal Aid Board, provides a broad outline of legal aid in the Netherlands, as well as a survey of the current facts and figures concerned with legal aid.

Under the European Convention on Human Rights and the Constitution of the Netherlands, each citizen of the Netherlands has the right to access courts, apply for legal advice and representation and, if means do not suffice, receive state-financed legal aid.¹ The Dutch legal aid system provides legal aid to people of limited means. Anyone in need of professional legal aid but unable to (fully) bear the costs, is entitled to call upon the provisions as set down in the Legal Aid Act (in force since 1994; the last amendment of this law took effect on February 1st, 2015). The Legal Aid Act of 1994 replaced the prior statutory system that dealt with the supply of legal aid and dates back as far as 1957.

Given their financial means, approximately 36% of the Dutch population (with a total of 16.8 million people) would, according to the latest estimates, qualify for legal aid if circumstances so require. The legal aid itself is mainly financed by the state (the Legal Aid Fund) and only for a minor part by an income-related contribution of the individual client.

Residing under the competence of the Ministry of Security & Justice (S&J), an independent governing body called the Legal Aid Board ('Raad voor Rechtsbijstand', LAB) is entrusted with all matters concerning administration, supervision and expenditure as well as with the actual implementation of the legal aid system. This includes matching the availability of legal experts with the demand for legal aid, as well as the supervision and quality control of the actual services provided. Annually, a monitor is published that reports on the previous five years' situation. The LAB consists of five speciality offices and one central office.

1 Constitution of the Netherlands Art. 17: 'No one may be prevented against his will from being heard by the courts to which he is entitled to apply under the law'. Art. 18 '(1) everyone may be legally represented in legal and administrative proceedings. (2) Terms concerning the supply of legal aid to persons of limited means shall be laid down by Act of Parliament.'

Being financed by the Ministry of S&J, the LAB accounts to this ministry for its budgetary allocations. The legal aid system operates according to an open end provision. In the past 20 years, spending on legal aid has more than doubled. However, this upward trend has recently come to an end (see Table 1).²

Table 1 Dutch population and expenditure on legal aid

	1994	1998	2002	2006	2008	2010	2012	2014
Total Dutch population*	15,300	15,650	16,105	16,334	16,405	16,575	16,656	16,829
Total expenditure on legal aid in Euro*	184,000	195,000	315,000	398,000	440,000	472,000	486,000	432,000
Expenditure per capita in Euro	12	12	20	24	27	28	29	26

*in thousands

Threefold model

The Dutch legal aid system is basically a threefold model in that it encompasses three 'lines' that provide legal aid (see figure 1 for a schematic representation):

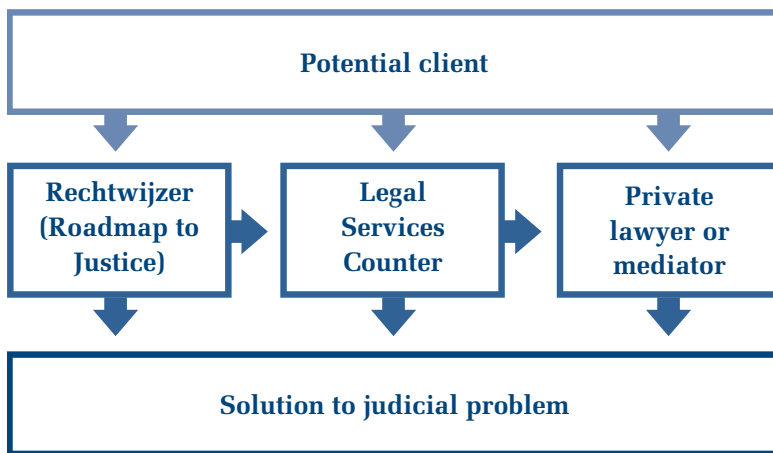
1. The preliminary provision of the interactive online application called Roadmap to Justice (Rechtwijzer; see www.rechtwijzer.nl) offers digital help by means of a 'decision tree'. It helps people to find solutions for their legal problems in an interactive manner. A test of an updated version has been in use since the end of 2014: Roadmap to Justice 2.0 (Rechtwijzer 2.0). The Legal Services Counters (see section 2 below) also have a website that can be seen as a preliminary provision.
2. The Legal Services Counters act as what is commonly known as the 'front office' (primary help). Legal matters are being clarified to clients and information and advice given. Clients may be referred to a private lawyer or mediator, who act as the secondary line of legal aid. Clients may also apply for help from a subsidised lawyer or mediator directly. If necessary, clients can also be referred to other professionals or support agencies.

2 Both in 2008 and in 2010, the Parliament of the Netherlands have decided to cut the costs of legal aid by € 50 million euros per year in order to prevent them from becoming even higher. In the last couple of years, new ideas for cutbacks have been made and are still being made. At the end of this brochure the plans for cost reduction will be discussed in greater detail.

3. Private lawyers and mediators provide legal aid in more complicated or time-consuming matters (secondary help) in the form of certificates. A lawyer (or mediator) submits an application to the LAB on behalf of his client. If legal aid is granted, a certificate is issued which allows the lawyer in question to deal with the case. Lawyers and mediators are paid by the LAB to provide their services to clients of limited means. Generally they are paid a fixed fee according to the type of case, although exceptions can be made for more time consuming cases.

The legal aid system, therefore, is a mixed model, consisting of a public preliminary provision, public first-line and private second-line help.

Figure 1 Schematic representation of the legal aid system



To some extent, trade unions and consumer organisations also provide legal aid. The number of legal aid insurance policies continued to rise for a long time and has stabilized around 42% of the Dutch households since 2010.

1 Preliminary provision: Roadmap to Justice (Rechtwijzer)

The LAB remains committed to the development of innovative web-based applications for citizens to be helpful in resolving their disputes. In cooperation with the University of Tilburg, the LAB facilitates the project Roadmap to Justice (Rechtwijzer) for citizens with a legal conflict or problem: a preliminary provision that helps people find solutions for their legal problems in an interactive manner. With the site www.rechtwijzer.nl citizens can actively work to find a solution to their conflict or problem. Where necessary, they will be referred to an appropriate person or organization.

The LAB collaborates with HiiL (Hague Institute for the Internationalisation of Law) and Modria Inc. in the elaboration and further development of new innovations to Roadmap to Justice (Rechtwijzer): Roadmap to Justice 2.0 (Rechtwijzer 2.0). A test of this website is in use since the end of 2014. Rechtwijzer 2.0 will replace the existing Rechtwijzer.

This online platform allows Dutch citizens to solve legal problems, initially in the area of divorce. For this purpose, Rechtwijzer 2.0 offers information, objective criteria and self-help tools. It is an online environment in which conflicting parties can solve their issues together in dialogue or may involve a neutral third party in an online 'trialogue'. With the aid of a reviewer the agreements can be finalized in a divorce settlement. In the near future, after-care will also be a possibility. Through the integrated approach of the platform it is expected that problems and conflicts will be resolved quickly. It aims to empower citizens to solve their problems by themselves or together with his or her partner. If necessary, it refers people to the assistance of experts. This way a low threshold is created for access to justice: people can address their problems and solve them at their own pace and in their own environment. In addition, Rechtwijzer 2.0 offers transparent pricing.

The new platform offers three important new functionalities: the option of letting a neutral third party expert take a decision (binding opinion), the option of a neutral review and the possibility of aftercare (in the future).

Rechtwijzer is continuously being developed and improved through feedback from citizens and service providers, but also by applying the latest technologies and functionalities. An advisory board is established to further develop Rechtwijzer 2.0 into a successful online tool. Many organizations, including the Ministry of S&J, the Dutch Bar Association, Legal Services Counters, consumer organizations, the Judiciary, the organization for Family Law, the organization for social counsellors, the Dutch institution for budget information, and the organization for maintenance allowance are part of the advisory board.

2 First-line legal aid: Legal Services Counters

Establishment of Legal Services Counters

Between 2003 and 2006 a major reform took place in the Dutch legal aid system. Legal Services Counters were set up to take over the primary (informative) function of the former Legal Aid and Advice Centres³; the secondary function (extended consultation and actual legal aid) was to be dealt with by private lawyers only. The goal of this operation was to keep the focus on primary legal aid and achieve more transparency of the legal aid system as a whole. The LAB set up the Legal Services Counters (LSC) as a separate body. The LSC are fully financed by the Board on the basis of a closed budget.

The organisation 'LSC' was established with 30 offices around the country. These 30 offices share a website and a call centre. They have been evenly set up geographically, so that every Dutch citizen is within easy reach of a Legal Services Counter, at a maximum of approximately one hour journey by public transport. The 30 offices have a uniform and recognisable appearance. The premises of the Counters have been designed to look as inviting to visitors as possible. Actually, they look more like a shop than an office. Inside is an open space with a waiting area and several desks. The call centre and rooms for private consultation are located at the back of the shop. There are also shelves with brochures containing information on legal matters. In general, each LSC is staffed with legal advisers. Some Counters, particularly those in major cities, employ more staff. Since the services of the current Counters do not include extensive legal aid and representation in court, paralegals can also be employed. The Dutch bachelor education system started a law course to train students for this kind of job some years ago.

The legal advisers at the Counters work in turns, both in the call centre (inquiries both by telephone and e-mail), at the counter, and in the consultation rooms. The call centres of all the Counters are

3 The former Legal Aid and Advice Centres used to provide both information and legal aid. In the course of time, however, this multiple nature of the Centres caused an increasing loss of insight into the actual proceedings at the Centres. It was therefore considered necessary to maintain a strict distinction between informative services on the one hand and legal aid on the other.

interconnected in order to spread the workload evenly. Sophisticated computer software, specifically designed for the LSC, is at the staff's disposal and helps them to answer the client's questions. Recently, in addition to the 30 offices, a large new call centre was opened, which employs approximately 40 people. In 2015 a (political) discussion has led to the decision that there will be more focus on the call centre activities and less on the face-to-face activities where people can visit without appointment. The consultation hours, for which people have to make an appointment, remain intact.

Tasks and procedures of the Legal Services Counters

As outlined above, the LSC act as front offices that provide primary legal aid. They offer information concerning rules and regulations as well as legal procedures. They give advice and refer clients to private lawyers or mediators if their problems turn out to be more complicated or time-consuming. All services are free of charge. Although the LSC are basically open to any Dutch citizen, the aid is mainly intended for persons of limited means who qualify for legal aid. Clients can turn to the Counters with all kinds of judicial problems that concern civil, administrative, criminal as well as immigration law.

The initial contact at the Counters is meant to clarify the nature of the problems and helps staff members to find out:

- whether the problem is actually a legal problem and, if so,
- whether the problem is within the scope of the legal services provided by the Counters (not all legal problems – e.g. those between businesses – are dealt with by the Counters);
- what kind of help is most suitable for the client.

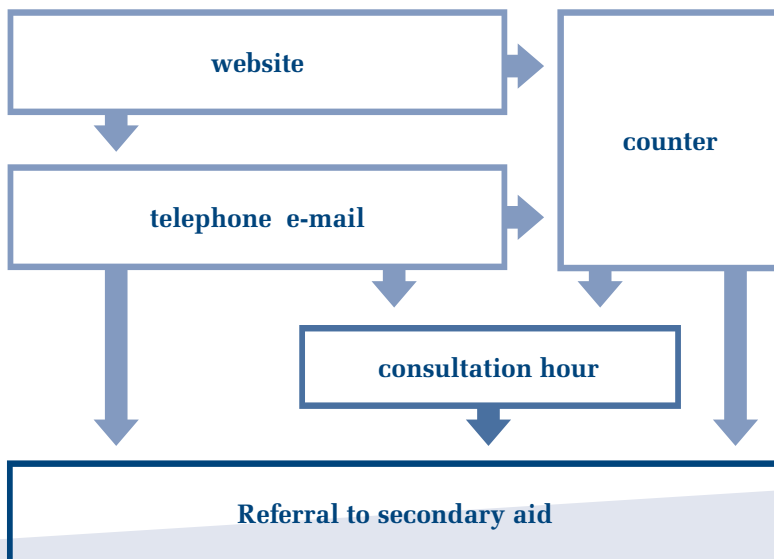
Staff of the LSC themselves are not allowed to act on behalf of the client.

The focus on primary legal aid is meant to serve two major goals. First, the help provided is readily available and free of charge. That is why the LSC are generally regarded as easily accessible and fairly informal. Secondly, they have an important screening function, in that they tackle disputes and legal problems at an early stage and thereby help to avoid

escalation as well as minimise costs, both for the individual in question and for society at large. This latter aim has been reinforced since the diagnosis and triage measure took effect (1 July 2011), which encourages potential clients to contact the LSC before approaching a lawyer.

There are several channels available by which potential clients can apply to the LSC for help: the website, e-mail, telephone, counter or referral to a consultation hour (by appointment), see figure 2 below. If the case requires in-depth help by a professional the client can be referred to a private lawyer or a mediator, who has agreed to be available for these referrals. The choice of a specific professional is based on his availability, his specialism, the travel distance between his office and the client's home, and the number of referrals that he has recently obtained. Software that was specifically designed for this purpose helps the Counter's staff to evenly distribute referrals among the lawyers available for referral. As soon as the referral is made, the lawyer receives an electronic message with information regarding the client and his problem, and with the preliminary advice (if any) that the client received from the LSC. The client has been informed by the Counter on the terms and procedures of the legal aid system.

Figure 2 Help provided by the Legal Services Counters



Legal Services Counters: facts and figures

The total number of 'client activities' performed by all 30 LSC in 2014 amounted to 873,000. This means that in 2014 the counter staff performed a specific activity for a client 873,000 times. A client activity may take place by direct contact with the client through any of the contact channels – 'the contact time' – or through other activities such as research needed in order to give proper advice in a certain case and consultation with the other party. Below, figures can be found concerning the nature of these client activities at the LSC. Most client activities consist of contact by phone or at the counter (in total, 75% of the client activities) (see table 2).

Table 2 Nature of client activities of Legal Services Counters (2014)*

	Total number 2014	Percentages 2014
Contact time		
Telephone 0900	375,000	43
Counter	276,000	32
Consultation hour	48,500	6
E-mail	35,000	4
Telephone, other	20,500	2
Chat	10,000	1
Non-contact time		
Researching	104,000	12
Consultation other party	3,500	<1
Total	873,000	100

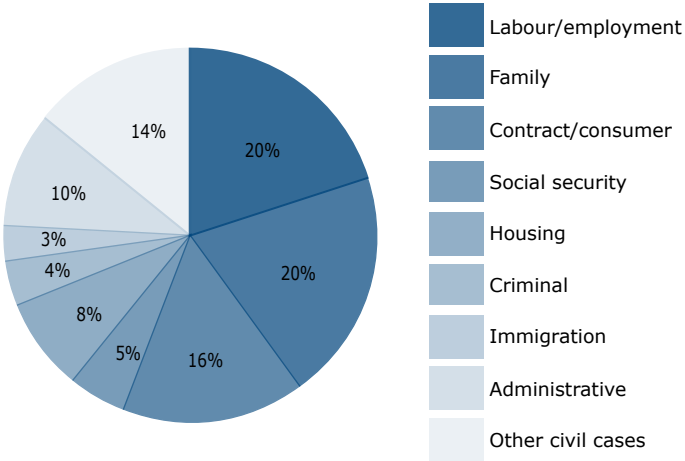
**All figures have been rounded off. That is why the total not exactly equals the sum of the separate figures.*

A client may have contacted the LSC on more than one occasion in 2014. That's why the number of clients is lower than the number of client activities shown above. Clients are estimated to contact LSC on approximately 2 to 3 occasions per person per year (about the same or different problems).

The LSC provide several kinds of services. The majority deals with providing information and answering questions (80%). The Counters also refer clients to the consultation hours (5%), to lawyers (13%), to mediators (<1%) or to other chain partners (3%).

Figure 3 shows how client activities at the Legal Services Counter are spread over the various fields of law. The majority of inquiries concern employment (20%), family law issues (20%), and contract/consumer law issues (16%),

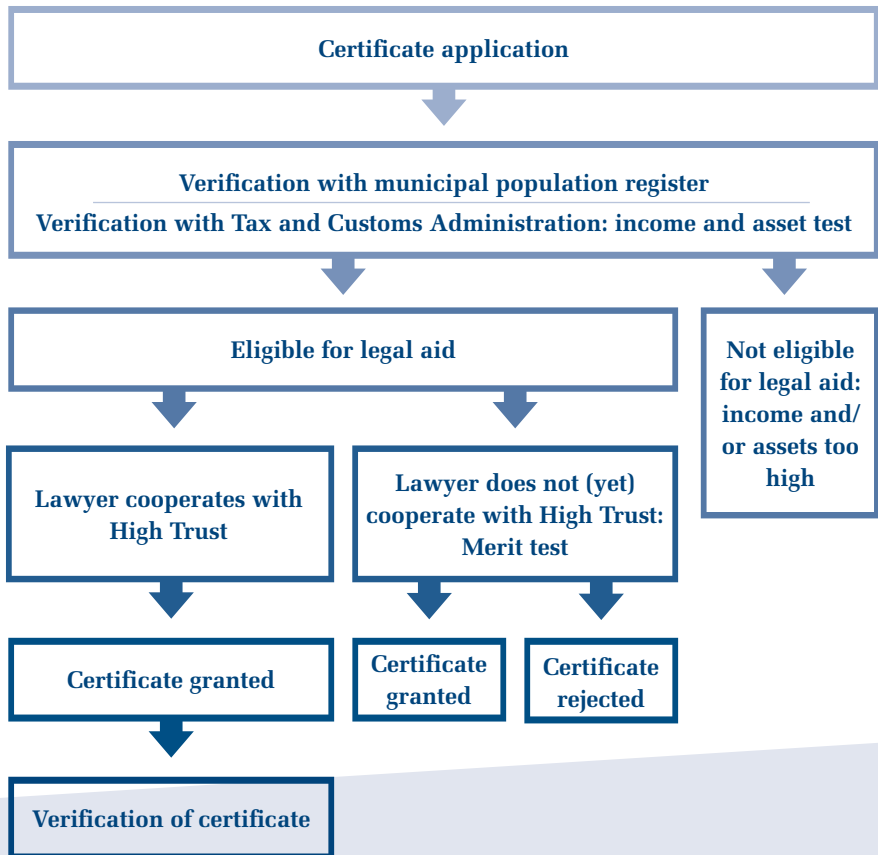
Figure 3 Fields of law (2014)



3 Secondary legal aid: Certificates

In order to obtain a certificate, a (Board-registered) lawyer needs to submit an application to the LAB on behalf of his client. Previously this was done on paper but now it is increasingly done electronically. By the end of 2014, 94% of all applications are submitted electronically and this number is still growing. The Board assesses each application both in terms of the client's income and assets and the (financial) significance of the legal problem in question. Figure 4 shows the route followed by the application for a certificate.

Figure 4 Schematic representation of a certificate application



Financial assessment of the applicant: eligibility for legal aid

The eligibility for legal aid is based on both the client's annual income and his assets. The LAB verifies the client's personal data with those in the municipal population register and checks the applicant's income and assets with the tax authorities. It is able to do so with the aid of a 'burgerservicenummer' (citizen service number) (BSN); this is a unique identification number, which every Dutch citizen receives when registering in the municipal population register. Thanks to online connections with the tax authorities, the Legal Aid Board is able to rapidly obtain information concerning the applicant's income and assets. Additionally, also non-Dutch litigants receive legal aid when they have a problem that concerns the Dutch legal system.

Assessment of the applicant's income and assets level (and hence his eligibility for legal aid) is based on his situation two years prior to the application date, the so-called reference year (t-2). The reason to use that year's data, is that those data have generally been found correct and therefore final. So, for a certificate to be granted in 2014, the applicant's income in 2012 is decisive. In order to qualify for legal aid in 2014, the applicant's income in 2012 should not be higher than € 25,600 (single person) or € 36,100 (married persons / single person with children). The applicant's assets must not exceed € 21,139.⁴

However, requests can be made to change the reference year, if the applicant's income and/or assets in the year of application has decreased substantially compared to that in the reference year. This holds if the applicant's reference-year income and/or assets would not make him eligible for legal aid, whereas his present income and/or assets will. If an applicant wishes to be eligible for a lower contribution, his income needs to have decreased by at least 15% compared to the reference year.⁵

When a client receives a certain sum of money because of the result of a procedure, his certificate will be withdrawn retroactively. He will be expected to pay his own lawyer.

4 Under certain conditions, applicants of 65 or over are allowed higher maximum assets.

5 In 2014, 22,720 requests to change the reference year were made. This amounts to 5.1% of the total of legal aid certificates granted. This is checked two years after the application.

High Trust

Until recently, the significance of the legal problem in question was also reviewed in advance with each separate application for legal aid. However, since the introduction of the High Trust method (see below) this no longer applies to each separate application.

Many lawyers regarded the application for a certificate as burdensome and time consuming, and the verification as bureaucratic. Therefore alternatives were considered to simplify the verification of applications and expense statements. The LAB introduced a High Trust method for dealing with the applications for certificates. This High Trust method implies that the LAB and lawyers work together on the basis of transparency, trust and mutual understanding. The High Trust method involves greater compliance on the part of the legal profession, both as to administrative proceedings of rules and working in accordance with the law, fixed procedures and support facilities such as Kenniswijzer (an online tool of the LAB with information about legislation, jurisprudence and guidelines for the application of certificates). The LAB develops specific tools for compliance assistance, such as information and instruction meetings, which are free of charge for lawyers under High Trust. The basic philosophy underlying High Trust is that trust among a larger group of people will more readily lead to positive cooperation and compliance than institutionalised distrust. The first results already confirm this. The number of offices that are time consuming for the LAB in dealing with applications is fast diminishing. At the same time, the number of offices that have a good relationship with the LAB is increasing fast.

In 2009, the LAB started with its first High Trust pilot. Since 2011, the Board has been implementing High Trust across the country in phases. In early 2015, 74% of the certificates are issued to an lawyer who works based on the principles of High Trust. At present a pilot is being carried out in which lawyers can apply for certificates for (the first 50 hours of) time consuming cases on the basis of High Trust as well.

It has become easier for providers of legal aid to apply for certificates without having to send documents along with their applications. The Board grants the certificate shortly after assessing the client's eligibility for legal aid. The applications of the lawyers that work together with the Board according to High Trust are accepted automatically. This means that the client will very soon be confirmed whether or not his application is granted. Verification takes place after the provider of legal aid has submitted the statement of expenses. There are two ways of verification: either verification on the basis of a random sample, or verification on a one-on-one basis of certificates granted.

Client's contributions and the 'diagnosis and triage' procedure

The costs of legal aid are not only paid by the LAB, but are partly covered by a contribution from the client himself. This personal contribution, though often covering only a small part of the actual expenses, is meant to incite clients to carefully weigh the pros and cons of taking a matter to a lawyer, and hence discouraging frivolous cases so as to remain in better control of the costs of the legal aid system at large.

In July 2011, the 'diagnosis and triage' procedure was implemented. The procedure encourages those seeking justice to first submit their problem or dispute to the Legal Services Counter. It was expected that it would be possible to solve more legal issues and problems at an early stage or via a different channel if they are first submitted to the Legal Services Counter. As a result, the number of future applications for certificates was expected to drop.

People seeking justice are encouraged to visit the Legal Services Counter before approaching a lawyer by offering them a discount of € 53 on the individual contribution, should it turn out that a certificate is needed after all.⁶

6 There are also cases in which the discount is automatically given, for example in criminal cases.

In 2014, the contributions to be paid by clients varied from € 143 to € 823 per case (according to their income, see table 3). The third column shows what a person pays if he first submitted his problem to the LSC. Individuals whose household income exceeds € 36,100 (partner income included) or € 25,600 (single) are not entitled to legal aid.

Table 3 Income and client's contribution, from 01-01-2014

Taxable annual income: married/single with child(ren)	Client's contribution		Taxable annual income: Single
	Without discount	With discount	
≤ € 25.200	€ 196	€ 143	≤ € 18.000
€ 25.201 t/m €26.100	€ 360	€ 307	€ 18.001 t/m € 18.700
€ 26.101 t/m € 27.400	€ 514	€ 461	€ 18.701 t/m € 19.700
€ 27.401 t/m € 30.500	€ 669	€ 616	€ 19.701 t/m € 21.600
€ 30.501 t/m € 36.100	€ 823	€ 770	€ 21.601 t/m € 25.600

In 84% of the certificates granted, the person seeking justice falls under the lowest individual contribution category. The client's contribution increased in recent years due to budget cuts. The same cuts have also led to higher client's contribution in case of certificates concerning divorce. For these divorce-related certificates the following client's contributions apply:

Table 4 Income and client's contribution for divorce-related certificates, from 01-01-2014

Taxable annual income: married/single with child(ren)	Client's contribution		Taxable annual income: Single
	Without discount	With discount	
≤ € 25.200	€ 340	€ 287	≤ € 18.000
€ 25.201 t/m €26.100	€ 412	€ 359	€ 18.001 t/m € 18.700
€ 26.101 t/m € 27.400	€ 566	€ 513	€ 18.701 t/m € 19.700
€ 27.401 t/m € 30.500	€ 720	€ 667	€ 19.701 t/m € 21.600
€ 30.501 t/m € 36.100	€ 849	€ 796	€ 21.601 t/m € 25.600

Sometimes clients are exempted from individual contributions. This applies to all cases where people have been deprived of their freedom against their will. 'Have-nots' are also exempted from paying an individual contribution as well as victims of violent crime and sexual offenses.

It is also possible to apply for a mediation certificate. This allows a client to call in assistance of an independent mediator, so as to help him to settle a conflict between himself and another party. To stimulate the use of mediation, the client's contribution towards the costs of mediation is generally less than that of regular legal aid by a lawyer. In 2014 the contribution for mediation was set at a maximum of € 105.

In case of relatively simple legal problems, private lawyers can charge a standard three-hour legal advice fee, of which the client contributes € 77 or € 129, depending on his income (see table 5). This is called a minor aid certificate.

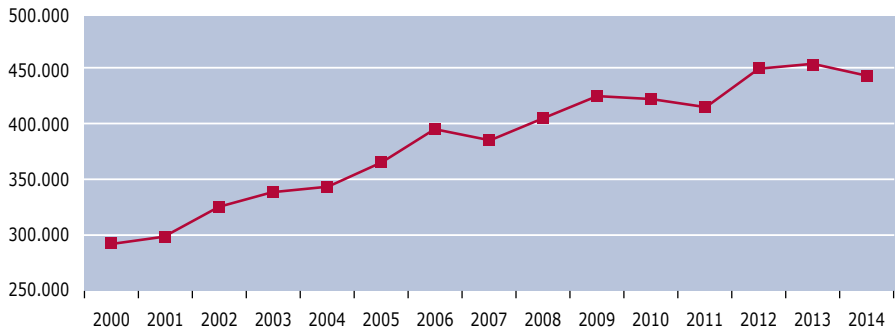
Table 5 Client's income and contribution towards a minor aid certificate, from 01-01-2014

Taxable annual income: married/single with child(ren)	Client's contribution to legal aid; max. 3 hours	Taxable annual income: single
≤ € 26.100	€ 77	≤ € 18.700
€ 26.101 t/m € 36.100	€ 129	€ 18.701 t/m € 25.600

Certificates: facts and figures

In 2014 as many as 444,500 legal aid certificates were issued. Since 2000 the number of certificates has risen by 52%. This upward trend is disrupted in a couple of years. In 2006 the number of certificates shows a more than average upward trend.⁷ In 2010, 2011, and 2014, the number of certificates issued shows a decline. Whether this is due to the cutbacks in the system is not known with certainty.

Figure 5 Legal aid certificates issued since 2000



In addition to regular legal aid certificates – 420,833 in 2014 – 10,190 ‘minor aid’ certificates (i.e. for max. three-hour legal aid) have been issued as well as 13,425 mediation certificates. The number of mediation certificates is growing, although still marginally.

For every certificate issued, the LAB registers the (major) field of law the certificate is concerned with (table 6). This table shows that more than half of the certificates concern criminal (29%) and family-related cases (22%).

7 This is probably due to the implementation of new procedures. Procedures to obtain a certificate have been simplified and terms slightly adapted. The number of certificates issued in the following years matches the upward trend since 2000.

Table 6 **Types of cases represented in legal aid certificates (2014)**

	Number 2014	Percentages 2014
Criminal	124,000	29
Family	94,000	22
Social benefits	29,000	7
Asylum	27,500	7
Contract/consumer	26,500	6
Psychiatric Hospitals (Compulsory Admissions) Act	25,000	6
Immigration	21,500	5
Administrative	16,500	4
Labour/employment	13,500	3
Social (security) insurance	12,500	3
Housing	12,000	3
Other civil cases	7,500	2
Pre-deportation detention	7,500	2
Debt restructuring	4,500	1
Total regular legal aid certificates	421,500	100
Mediation certificates	13,500	
Minor aid certificates	10,000	
Total	444,500	

Multiple use

Between 2000 and 2014 the average number of certificates issued per client per year increased from 1.33 to 1.52; this is an increase of 14%. However, in 2014 there was a small decrease in the average number of certificates issued per client. In 2000, as many as 78% of the clients had one certificate for legal aid, while in 2014 this had dropped to 72%.

Types of cases that occur relatively often with multiple users with more than ten certificates concern administrative law, social security benefits, disputes/complaints detainees, detention of aliens and immigration and asylum law.

Duty lawyers

Besides certificates, the LAB also provides duty lawyers. Each criminal suspect, alien or psychiatric patient who has been lawfully deprived of his liberty against his will is visited by a subsidised lawyer. The availability of lawyers is provided for through the duty solicitor scheme. Lawyers are scheduled according to a rotation system, so that a lawyer will always be available. In 2014, legal aid provision through duty lawyers took place 126,000 times.

Table 7 Legal aid various duty lawyers in 2014

Kind of duty lawyer	2014
Criminal, incl. juvenile	114,000
Psychiatric	9,500
Asylum	2,500
Total	126,000

Compared to 2009, this type of legal aid increased by 42% in 2014. The reason for this rise lies in the procedural adjustments following the Salduz case. Following this judgment of the European Court in 2009, suspects will be entitled, prior to their questioning by the police, to consult a lawyer.

Experiments within criminal law

To increase the effectiveness and impact of criminal law, the Dutch authorities took several initiatives. The Dutch Public Prosecution Service (Openbaar Ministerie - OM), for example, opted for a new approach to common crimes. To deal with these crimes, the OM experimented with the Zo spoedig mogelijk (ZSM) -“as soon as possible”- model. Objective of this model is a combined diagnosis and triage of the OM and the police, with the advice of the child protection (in case a minor is involved) and the probation office. New instruments are given to public prosecutors to impose light punitive measures (like fines and community service orders). In order to come to a careful non judicial way for early intervention, by means of out-of-court settlements within

a period of a couple of days at the most. For these common crimes to be dealt with prudently, it is important that sufficient lawyers are available. To guarantee this availability, the Board, OM and police are experimenting with means to offer support to apprehended suspects by means of video connections. The LAB also participates in ZSM to ensure that eventually there will be fewer criminal cases and procedures.

4 Private lawyers and mediators working within the legal aid system

Legal aid in the Netherlands is usually provided by private lawyers/ law firms that provide legal advice and represent clients in cases that deal with the major fields of legal aid: criminal, family, labour/ employment, housing, social security, consumer, administrative, asylum and immigration. Private lawyers obtain legal aid cases in two ways: either one of the LSC refers a client to a lawyer, or a client contacts a registered lawyer on his own accord. In the latter case the lawyer will have to refer a client 'back' to the LSC to give them the opportunity to solve the problem and in order to qualify for a discount in the individual contribution, if a certificate for legal aid is needed.

To be entitled to accept legal aid cases, private lawyers need to be registered with the LAB and to comply with a set of quality standards. These standards are set by the Bar. For some fields of law – criminal, mental health, asylum and immigration law, youth, family law – additional terms apply. The lawyer must both have adequate expertise and sufficient experience in that particular field.

Payment of lawyers and mediators

As soon as a case is closed, the lawyer bills the LAB for the services provided. A lawyer does not charge for hours but works for a fixed fee which differs according to different types of cases. These fees are based on extensive analyses of legal aid cases from the past and are supposed to correspond with the average time spent on a specific kind of case by a lawyer. A few examples are presented in table 8. In cases that concern labour (dismissal), for example, lawyers will be paid 11 hours.

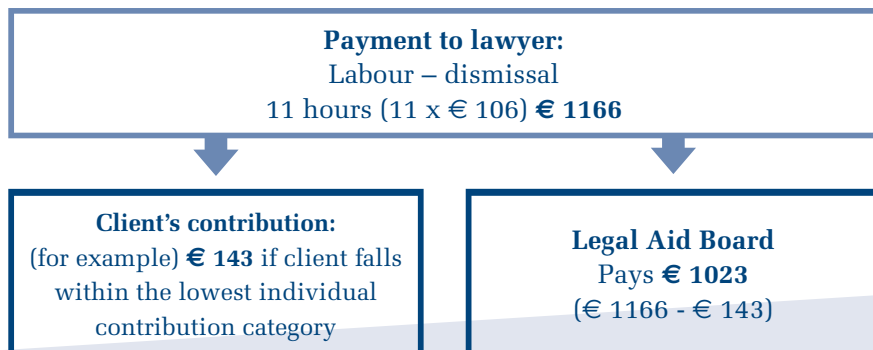
Table 8 **Examples of types of cases and the corresponding fixed number of paid working hours**

Type of case	Fixed number of paid working hours
Labour: dismissal	11
Divorce	10
Asylum	4
Felony	6/8
Criminal offence	5

In 1994 the hourly legal aid rate was € 26. In 2000 and 2002, fees have been raised substantially, because lawyers operating within the legal aid system were relatively underpaid. Since then, the Ministry determines the hourly rate every year following an annual price index. In 2014 the hourly rate was € 106. This means that for each labour - dismissal case a lawyer is paid 11 times € 106 for legal aid. Previously this hourly wage was indexed every year. However, because of budget cuts, this amount has been reduced several times in recent years. Since 2012, the hourly wage is around € 106.

Part of this fixed fee is paid by the client through the individual contribution; lawyers are responsible for collecting this contribution themselves. The remainder of the bill is paid by the LAB (see figure 6).

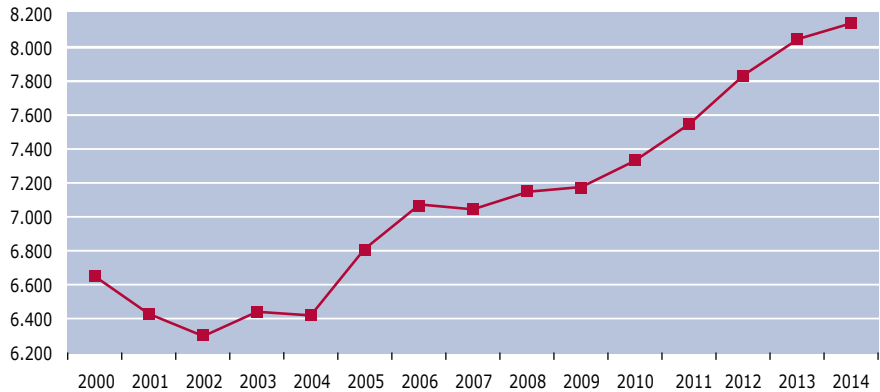
Figure 6 **Schematic representation of the payment of the lawyer’s bill**



Number of lawyers and mediators

In 2014, as many as 8,147 lawyers and mediators provided legal aid in at least one case. This number has increased during the last decade.

Figure 7 Number of legal aid lawyers (2000 – 2014)



In 2014, 44% of all Bar-members work within the legal aid system. Just like the number of legal aid lawyers, the number of mediators has increased – by 146% – compared to 2007. In 2014, 784 mediators applied for a mediation certificate on behalf of their client(s). Often, the mediators working in the system also practise as lawyers.

Compared to 2000, the number of certificates issued has increased, and so has the number of lawyers in the legal aid system. The latter, however, has risen less fast. As a result, from 2000 to 2014 the average number of certificates per lawyer has risen by 25%, from 44 to 55 certificates per year.

The lawyers are quite loyal to the legal aid system. Figures indicate that the vast majority of legal aid lawyers (almost 90%) remain active within the system for at least 5 consecutive years.

From this it can be concluded that, for the time being, there will be enough lawyers to provide legal aid.

5 Users of the legal aid system

Number of clients of the Legal Services Counters

Since the LSC does not always record client details, the exact number of clients is not known. In 2014 the LSC served at least 300.000 clients.

Background characteristics of clients of the Legal Services Counter

Since we have the BSN of many clients of the LSC, we are able to identify the background characteristics of the clients of the LSC. Compared to the average Dutch citizen, the average client of the LSC is more likely to be female, more likely to be between 25 and 55 years old, more likely to be a member of a non-Western ethnic minority group and more likely to be citizens of larger municipalities/(highly) urbanised areas. They are less likely to be married/more likely to be divorced and more likely to belong to a single person household or single parent family household. They are relatively often recipients of social benefits and less often pension recipients.

Number of legal aid applicants

Compared to 2000, last year (2014) showed an increase by 32% of the number of applicants that were granted at least one certificate per year. In 2014 more than 290,000 clients received a certificate.

Background characteristics of recipients of legal aid certificates

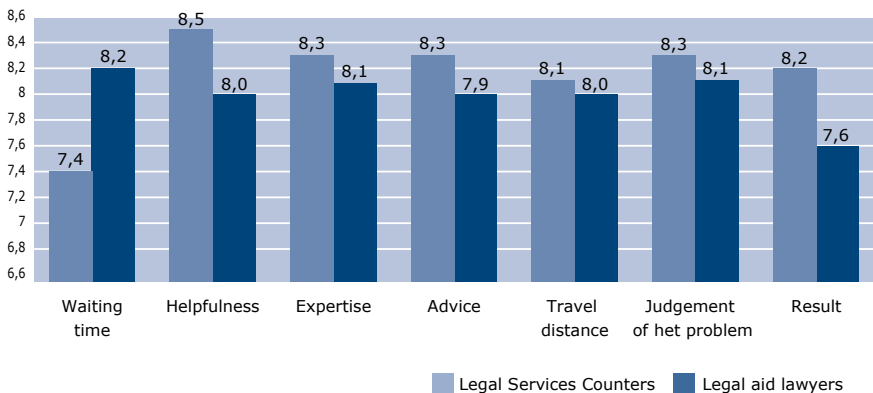
Thanks to online connections with the tax authorities in which case a BSN is necessary, it has become possible – more accurately so than in the past – to assess the scope of the legal aid system and gain a better insight into the socio-economic characteristics of those who apply for legal aid. Estimates are that approximately 36% of the Dutch population would, on the basis of their financial means, qualify for legal aid. Since we have the BSN of many legal aid recipients, we are also able to identify their background characteristics. Holders of a legal aid certificate are predominantly male and between 20 and 45 years of age; certificate holders of under 15 or over 60 are fairly infrequent. Youngsters/students, employed and retired workers are found to be

fairly underrepresented, whereas recipients of social benefit and other non-working persons are overrepresented. In total, approximately 60% of all certificate holders are without a job. Certificate holders are also found to be more often divorced and less often married (married persons without children, in particular, are underrepresented), whereas certificate holders living in single-parent families are overrepresented. Furthermore, certificate holders are more likely to be members of non-western ethnic minority groups and live mainly in cities of over 250,000 residents and less often in cities under 50,000 residents.

Client satisfaction

Customer surveys have shown that, in general, clients rate the services of the LSC as 'good' or even 'very good' (with an average score of 8.2, see figure 8). 'Waiting time' was the item that received the lowest score (7.4). This relatively low score can be explained by the surge of clients to the LSC on account of the 'diagnosis and triage' measure. The services of the legal aid lawyers are also rated as 'good' (7.9).

Figure 8 Client satisfaction (LSC in 2012, lawyers in 2013)



6 Developments following cutbacks in the system

Compared to 2000, public expenditure on legal aid is increasing over the years. The reason for this is, on the one hand, the higher fees the lawyers⁸ receive, and, on the other hand, the growing number of people seeking recourse to the system. The government is partly responsible for the increase in the number of certificates, because the laws and regulations are too complex for many people. In 2008, the government decided to cut the budget for legal aid by 50 million euros. The programme 'Rechtsbijstand en Geschiloplossing' (Legal Aid and Disputes Resolution) examined the possible options at the time.⁹

This programme proposed a number of measures that were to lead to both improvements in the quality of the service by the government and to structural savings in legal aid and administration of the law. One of these measures is to make public bodies communicate better with their clients in order to avoid simple problems from escalating and possibly end up in lawsuits that require legal aid. This calls for a change of culture towards a more proactive and empathic approach, but it would help to reduce costs – both in terms of expense and effort made – for all parties involved: the clients, the public bodies themselves and the judiciary at large. Client satisfaction would increase too, and so would the work satisfaction of all the professionals concerned, as well as the quality and efficiency of decisions and procedures. Another major cost-cutting measure is to further stimulate alternative ways of dispute settlement. Mediation and the 'Roadmap to Justice' (Rechtwijzer) were major steps in that direction. Other spending cuts that were implemented included increasing the financial significance a case should have before it becomes eligible for legal aid, the indexation of the

8 From a fixed rate of € 69.88 in 2000 to a fixed rate of € 105.61 in 2015. This is not a permanent increase. In 2011, this amount was € 112.94, and in 2012 the fees concerned were adjusted downwards.

9 This programme includes a large number of parties that have come together to give their thoughts on how to improve the quality of the services by the government and how to make structural savings in legal aid and the administration of the law.

legal costs that government bodies are ordered to pay (this had not happened since 1994) and the introduction of the diagnosis & triage measure, which should encourage people to resolve their dispute at an earlier stage. The financial pressure on the system has increased even more due to the legal precedent that was set following the Salduz case. Following this judgment of the European Court in 2009, suspects will be entitled, prior to their questioning by the police, to consult a lawyer. The Ministry estimated that this will lead to an additional deficit in the budget for legal aid of approximately 15 million euros. This amount will also need to be compensated for in the total budget for legal aid.

In 2010, more spending cuts were announced of 50 million euros a year. To curb this expenditure, the client's contributions for certificates for legal aid were increased across the board; these apply if people seeking justice are unable to submit a diagnosis document (diagnosis and triage measure). On 1 January 2012, the lawyers' fees were adjusted and no longer index-linked. Moreover, the Legal Aid Board has to make cuts of € 5 million; one of the measures to achieve this is by introducing the web portal.

In 2013, all client's contributions were increased again. Furthermore, the client's contribution in divorce cases went up even more on 1 October 2013. There is also more attention to multiple use of certificates for legal aid and time consuming cases: Clients have to pay a contribution again when they want to consult another lawyer or when their case becomes 'time consuming'.

The State Secretary for Security and Justice believes that the system of legal aid needs to be reviewed in due course. For this purpose, a consultation paper was issued late 2011. Following this consultation paper, a policy was developed that should result in structural savings of 85 million euros annually. On February 1st 2015, the following measures took effect:

- Temporary elimination of annual indexation with respect to the lawyers' fees and the client contribution;
- Reassessment of a fixed number of paid working hours for specific parts of the criminal process and limitation of the legal aid commissioned by the court¹⁰ if the custody is suspended immediately after it is ordered;
- Reduction of the hourly legal aid rate;
- Reduction of lawyer's fee in time consuming cases.

Other proposed cutbacks have been suspended because the Senate filed a number of motions in the beginning of 2015. A commission is established that will issue an opinion after extensive research.

Efforts by the Legal Aid Board and relationship with the role of government

The LAB wishes to strengthen the self-reliance of citizens who have legal problems by offering a varied and transparent range of provisions. Where necessary, the LAB offers customisation. Early diagnosis and triage through the Roadmap to Justice and the Legal Services Counter contribute to easy resolution of problems, stimulating personal initiative, and is meant to lead to a reduction in the number of applications for legal aid with the help of a lawyer or mediator (certificates). With the Roadmap to Justice and the option of online mediation, the LAB contributes to the self-reliance of citizens in cases of divorce. The Board thus constantly increases the possibilities to stimulate self-help.

According to the LAB, the success rate of the types of self-help mentioned above will increase if the Dutch government also takes its responsibility. This primarily means that the government should set clear and simple rules and standards and explain them well. This will help them with many common issues such as disputes about work and maintenance. Citizens should also be able to choose from several options available to resolve their disputes. The mandatory engagement of a lawyer or a judge, which is currently quite common in many fields of law, will increase the costs of subsidised facilities considerably. The

10 For a suspect who is in custody, a judge gives an instruction to the LAB to appoint a lawyer. These clients are exempted from individual contributions.

government should ensure a level playing field with quality standards that are not tailored to one type of service but which could also be achieved by alternatives such as providers of websites, legal expenses insurers, mediators or specific dispute resolution committees. Especially in cases where the government is the opposing party – particularly in administrative law – it is the government’s obligation to properly inform the citizens about what they can expect in proceedings and about the assessment criteria. In short, a government that is transparent and fair and delivers a high standard of service to its citizens.

Finally, the government should promote standards for the settlement of conflicts. They can prepare standard documents for common cases, such as letters, questions to parties, (court) protocols or documents to institute proceedings, they will make the legal system much easier to understand for citizens. This will accelerate the process aimed at finding a proper solution.

7 **In conclusion: The current state of the legal aid system**

The primary objective of the Legal Aid Act is to offer an accessible provision to clients that fall under the scope of the legal aid. The second objective is to offer sufficient high quality legal aid providers.

Citizens entitled to legal aid who have a legal question will have proper access to legal aid if:

1. the legal aid system facilitates the provisions/services sufficiently and (the procedure of) the supply is transparent for people seeking justice;
2. the price of legal aid is not an obstruction to use it when people have serious problems.


There will be sufficient provisions for good quality legal aid if:

3. the supply of legal aid matches the demand for it;
4. legal aid is effective, meaning that the information needs of people are satisfied and/or that the case is properly handled;
5. the users of the legal aid system are satisfied with the services of the system and the quality of the system, regarding the design and implementation, is guaranteed.

To what extent are the aforementioned conditions currently met by the system? Every year the Monitor Legal Aid is written, in which an extensive analysis of these objectives appears. This analysis shows that the Dutch legal aid system is balanced and performs well. All objectives are positively and/or sufficiently evaluated. No component seems to have a serious difficulty. However, there are some issues that need to be addressed.

Rechtwijzer 2.0 (Roadmap to Justice 2.0) has started in February 2015; the use of this tool is being monitored. Rechtwijzer 1.0 has been evaluated by the University of Twente. This evaluation shows

that visitors of the website with an overall positive evaluation of the website. They rated the website a very positive grade and were inclined to recommend the website to others. The LSC, the primary line, focuses increasingly on people who are eligible for legal aid. The extent to which quality can be monitored externally as well as internally is being investigated. In the second line, many people seeking justice do not know how much they have to pay as individual contribution. Also, a small group of multiple users use relatively many certificates. Despite, or perhaps because of, the cutbacks, the system increasingly seems to do what it essentially was intended to do.

A photograph of a busy outdoor scene, likely a park or public square, with people walking. In the foreground, a young child in a white shirt and shorts is walking towards the right. Behind them, several other people are visible, including a woman in a red tank top and a woman in a white shirt. The background is filled with green foliage and trees. The image is partially obscured by a white semi-transparent box containing text.

More information can be found on the website of the Dutch Legal Aid Board:
www.rvr.org

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