

The future of legal aid in the Netherlands

The Netherlands has a long tradition of legal aid (i.e. subsidised legal help). The Dutch constitution enshrines the principles that all citizens should have access to justice and a right to legal representation and legal aid¹. For many decades these fundamental rights have been regulated in specific legislation and delegated legislation. A new Legal Aid Act (*Wet op de rechtsbijstand*) came into force in 1994, thereby replacing a former statute for the provision of legal aid to the indigent or people of modest means. The present system is contained in the new Act.

Decisions are at present being taken on proposals to modernise the system. This article explains the proposals. In order to enable the reader to understand the intended improvements, I will first outline the present system and the background to the political decision-making.

The Dutch legal aid system consists of various provisions which can, generally speaking, be divided into two categories: a first-line service (i.e. the initial contact with members of the public) and the extended/full service. An important principle is that legal problems should be tackled at an early stage. In this way they can be nipped in the bud, thereby avoiding the possibility of escalation and minimising the social costs and personal damage. The first-line service plays an important role in this connection: it should provide easy access to the legal aid system as a whole and have a sufficiently high profile to ensure that potential litigants are aware of its existence and know how to contact it at an early stage. Many problems can be resolved through the provision of immediate legal advice and assistance by the first-line contacts. Where this is not possible, litigants can be passed on to the extended/full service, which can offer them the expertise needed to engage in protracted proceedings.

First-line service

The first-line service (i.e. initial legal advice and assistance) is provided principally by the Legal Aid, Advice & Assistance Centres (*Bureaus Rechtshulp*), which are independent, publicly funded bodies. They provide a 30-minute free consultation during which professional lawyers provide information, give advice or refer the clients to specialised legal aid staff.

This initial contact also helps to funnel and sift out the cases. Publicity for the system is generated by means of communication through the mass media and contacts with intermediaries. During the initial consultation the lawyers can assess whether:

- the problem is indeed a legal problem and, if so,
- whether it comes within the statutory criteria (not all legal problems are eligible for legal aid) and
- which service provider is best placed to solve the problem.

At this stage the clients can also obtain information about the chances of success, the lead time and the costs of the subsequent procedure. On this basis they can weigh up their own

¹ 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) Rules concerning the granting of legal aid to persons of limited means shall be laid down by Act of Parliament.'

interests and decide whether they wish to proceed with the case.

Extended/full service

If a legal problem cannot be resolved by the first-line staff during the initial consultation, the client is referred to the extended/full service. If the client pays a contribution of € 13.50, the staff of the Legal Aid, Advice & Assistance Centres can provide a further three hours' free legal assistance if they consider that this would solve the problem concerned. This provision is known as an extended consultation.

If the extended consultation too is insufficient, application may be made for legal aid (i.e. subsidised legal advice, assistance and representation). The attorney or staff lawyer completes standard forms explaining the legal context of the problem and the client provides information about his or her income and financial position (once again by completing model forms and standard procedures).

These data are then sent to one of the five Legal Aid Boards (*Raden voor de Rechtsbijstand*), which assesses:

- whether the legal problem fulfils the statutory criteria;
 - whether the financial means of the client come within the statutory limits;
 - how much the income-related contribution of the client should be;
 - whether the attorney meets the quality criteria for participation in the system.
- At the end of the legal proceedings the attorney claims the costs from the Legal Aid Board, which determines and pays the fee on the basis of the rules and regulations.

The greater the financial means of the client the more he or she is in principle required to pay. As this contribution is an effective incentive for clients to weight their interests carefully, it helps to control the costs of the system.

Although the staff lawyers of the Legal Advice & Assistance Centres can act for a client on the basis of an assignment (*toevoeging*), the work is mainly carried out by attorneys in private practice (330,000 cases). The number of cases conducted by the staff lawyers is relatively small (8,500).

Asylum

A separate system has been created for the provision of legal advice and assistance to asylum-seekers. Part of this legal advice and assistance is provided by three Asylum-Seekers Legal Advice Foundations, which are also responsible for the organisation of this legal service. They too are financed by the Legal Aid Boards. In addition, specialised attorneys in private practice provide legal assistance to asylum-seekers. This is arranged by virtually the same procedures (i.e. by assignment) as ordinary legal aid.

Legal Aid Boards

The Legal Aid Boards are responsible for organising and supervising legal aid, including not only such aspects as the provision of information, the control of supply and demand, the quality of the service, research, policy development and alternative forms of legal assistance such as mediation, but also the monitoring and control of the system.

The Legal Aid Act was first evaluated in 1998. The main conclusion was that the monitoring and control of the system had been brought up to standard since the introduction of the Act in 1994.

Outlook

This conclusion meant that attention could be focused on the more substantive aspects of the provisions. In 2000 the Legal Aid Boards gave instructions to identify relevant trends and expectations. This survey was carried out by the Verweij Jonker Institute, a socio-scientific research institute, and formed the basis for further research and discussion. Important conclusions regarding the development of supply and demand have been drawn from the various surveys carried out in recent years.

Demand

As regards demand for legal advice and assistance, it was concluded that:

- over half of the target group² were unaware of the service and were therefore unlikely to make use of legal aid;
- the demand for legal aid is more likely to increase than to decrease, owing to:
 - globalisation
 - the ‘juridification’ of society
 - the fact that citizens are becoming assertive and aware of their rights.

Supply

As regards supply it became clear that:

- the Legal Aid, Advice and Assistance Centres had increasingly shifted the emphasis from the first-line service to the extended/full service, expecting in this way to increase the volume of the business they handle and fulfil the personal ambitions of their staff lawyers;
- the Legal Aid, Advice and Assistance Centres had also started to engage in other activities, sometimes even *contra legem*. For example, some Centres had started providing legal advice and assistance to paying clients, which was contrary to the Legal Aid Act. In addition, this had created unfair competition because the subsidies enabled the Centres to operate with lower overheads than their market competitors whom they could thus undercut. Furthermore, the first-line service enabled the Centres to siphon off interesting cases for themselves. These developments had not been conducive to transparency for citizens or for the government in its role of financier;
- the number of attorneys in private practice willing to undertake legal aid work would decline in due course because legal aid rates were lagging behind and the sector had a dubious image;
- there was an increasing need for visible and assured quality.

Facts

The decline in above all the first-line service was regarded by many people as an undesirable trend, since this easily accessible and cheap service formed the jewel in the crown of the Dutch system. This assertion can be supported by various facts:

- 457,000 initial consultations (consultation and telephone contacts) in 2002 resulted in over 216,000 consultation hour cases at the Legal Aid, Advice and Assistance Centres; (for the figures for previous years see the analysis of the production data of the Legal Aid

² Survey of ‘Under-use of legal aid services’, September 2001, carried out by Ms E. van Hoof as part of her graduation assignment at the Brabant College of Higher Education.

- Foundations 1999-2001, October 2002³);
- 80% of these 216,000 cases⁴ were disposed of free of charge within half an hour;
- 36,000 cases⁵ could be completed within an average of 2.3 hours by means of the extended consultation procedure, for which the client was required to pay a contribution of € 13.50;
- 8,500 assignments⁶ for Legal Aid and Advice Centres.

Proposals

In its survey of future developments (2001) the Verweij-Jonker Institute⁷ made proposals for the establishment of a future system on the basis of the above data. These proposals were as follows:

1. introduce a Legal Services Counter in order to ensure that the legal aid system remains accessible and to guarantee the transparency of the market;
2. enhance the quality of the service still further;
3. introduce demand-driven control of the system.

1) Legal Services Counter

The recommendation for the introduction of a Legal Services Counter caused much commotion within the sector, mainly because it would entail a repositioning of the Legal Aid, Advice and Assistance Centres. In view of the interests at stake and the differences of opinion, the then State Secretary for Justice requested an independent committee to analyse the advantages and disadvantages of such a repositioning of the Legal Advice and Assistance Centres and the institution of a Legal Services Counter, taking account of the need to ensure the accessibility, continuity and affordability of legal advice and assistance and the interests of those seeking legal help.

The Committee (known as the *Ouwerkerk* Committee after its chairman) considered that it was particularly regrettable that in the existing situation such a large proportion of the people in most pressing need of legal advice and assistance made no use of the first-line services of the Legal Aid, Advice and Assistance Centres, partly because they were unaware of the existence of the service. At the same time the Legal Aid, Advice and Assistance Centres were concentrating more and more on providing the extended/full service and less and less on the first-line service. Against this background there was no reason to suppose that the under-use of the system would diminish.

On this basis the Committee arrived at the core of its recommendations⁸:

- create a Legal Services Counter which provides information, clarifies issues, answers questions, makes referrals and arranges for consultations lasting not more than one hour;
- give the Legal Services Counter the possibility to invest in the provision of information, in order to publicise the system and reduce under-use;

³ The Centres had 430,000 first-line contacts in 2001, 448,000 in 2000 and 377,000 in 1999.

⁴ The number of consultations had dropped steadily from 255,000 in 1997 to 235,000 in 1998, 212,000 in 1999, 210,000 in 2000 and 212,000 in 2001; the 2002 figure therefore represented a slight rise.

⁵ The number of extended consultation cases is rising slightly each year (33,959 in 1999 and 36,262 in 2001).

⁶ The number of assignments too is rising year by year (6,262 in 1999 and 7,107 in 2001).

⁷ *Toekomstverkenning Gefinancierde Rechtsbijstand* (Survey of the Future of Legal Aid), January 2001, Dr R.A.L. Rijkschroeff et al.

⁸ Advisory Report of the Committee on the Future Organisation of the Legal Aid System, February 2002.

- distinguish clearly between public and private functions;
- expressly designate the Legal Services Counter as belonging in the public domain; the authorities are emphatically responsible for effectuating the fundamental right of access to justice, but also have an interest in preventing the escalation of problems and hence high social costs by providing legal advice and assistance at an early stage;
- arrange for extended/full legal advice and assistance to be handled completely by the private sector on the basis of assignments;
- switch part of the present first-line service (namely the provision of a maximum of 3 hours' advice and assistance at the Legal Advice and Assistance Centres after the free consultation) to the extended legal service; this would enable attorneys in private practice and other providers of legal services to offer and implement the service. The litigants could be eligible for this service by means of a (simplified) assignment of the kind used for other legal aid activities. However, the Committee does recommend the adoption of a stronger price incentive than the present contribution of € 13.50;
- take measures to guarantee the availability of sufficient qualified staff; this could be done by means of careers policy, staff exchanges, growth opportunities, training facilities and ICT support, which would also help to strengthen the image of the sector.

2) Quality

Measures to enhance quality had already been taken. At national level this had resulted, for example, in an agreement in 2002 between the Bar, the Legal Aid Boards and the State Secretary for Justice⁹ on the payment of a merit allowance for proven quality. Selected attorneys were trained as auditors in order to assess the quality of law offices by reference to agreed criteria. Law offices which met the criteria were eligible for higher remuneration for legal aid work. The great majority of attorneys in private practice are now taking part in this system. From 1 January 2004 onwards the Legal Aid Boards will admit only audited attorneys to the system. Other important quality measures have been taken by the joint Asylum-Seekers Legal Advice Foundations and by various Legal Aid, Advice & Assistance Centres.

The Legal Aid Board in the court district of 's-Hertogenbosch found law offices that were themselves prepared to invest substantial sums in achieving integral quality. These law offices founded the Viadicte Foundation, which took a variety of quality measures with the support of the Legal Aid Board. Ultimately this resulted in the establishment of a far-reaching quality audit. Law offices which pass the audit are entitled to carry a special quality hallmark. This quality hallmark was assigned to the first five law offices on 3 April 2003.

3) Demand-driven approach

It was initially thought that a demand-driven approach could be achieved by arranging for legal aid vouchers to be provided by the Legal Services Counter. Litigants themselves could then choose an attorney and exchange the voucher. For the time being, however, this procedure is considered neither necessary nor feasible.

A demand-driven approach will therefore be achieved through the Legal Services Counter in other ways. First of all, the Counter must reduce under-use and, as it were, generate demand. Changes in demand can be properly monitored by means of adequate registration. The Counter will then refer litigants to certified or audited and specialised service providers, with whom agreements have been made beforehand about the number of cases they will handle.

⁹ A state secretary is a junior minister.

Improvement

In line with the recommendations of the Verwey-Jonker survey, this advisory report also regarded the introduction of the Legal Services Counter as the main instrument for providing the public with adequate information and helping them to find their way in the legal field.

From the perspective of litigants and prospective litigants the introduction of the Legal Services Counter would be a definite improvement for the following reasons:

- within the Legal Services Counter attention could be fully concentrated on the provision of legal advice and assistance during the initial consultation (the jewel in the crown of the Dutch system); there would no longer be any internal link with the extended/full legal service;
- the measures to combat under-use (a problem identified by all the reports) would be a definite aim of the Legal Services Counter, which could give this problem its undivided attention since the first-line service would be its core activity;
- the service provided by the Legal Services Counter would remain free of charge and would even be extended by half an hour to a full hour; the great majority of questions could therefore be dealt with by the Counter;
- in addition, the service would be boosted by telephone access, online access ('virtual counter') and other modern forms of service; this would therefore expand the services to litigants and the choices available to them;
- a national network would be created, thereby ensuring that the service provided to litigants is based on the same concept everywhere;
- the Legal Services Counter could make an appointment with certified attorneys in private practice; a potential disadvantage is that this would result in extra referrals, although research by Intomart shows that litigants would have no objection if they were referred an extra time by the Counter to a specialised provider of legal services;
- at the same time, the Legal Aid Boards are making far-reaching improvements to the administrative procedures; from mid-2004 onwards financial means will be determined by reference to the income for tax purposes on the basis of data supplied by the tax authorities (*Belastingdienst*); this will substantially reduce the administrative burden for the litigants and hence facilitate access to the system.

The Legal Services Counter could also have a positive effect on the development of supply:

- as matters stand at present, Legal Aid, Advice and Assistance Centres can refer interesting cases to themselves from the first-line legal service or acquire a strong position in the market for commercial legal services by using their government subsidy to undercut their competitors. This is hardly conducive to the image of the sector with the Bar. The problem could be resolved by making a sharp distinction between public and private functions and by the introduction of the Legal Services Counter. It is expected that the Bar may then show greater interest in legal aid work again;
- this effect could be enhanced by making arrangements for referrals from the Legal Services Counter, in which more specific agreements are made about, say, legal areas, numbers of cases, accessibility and quality assurance;
- the Legal Services Counter would provide the authorities with an instrument for controlling quality of the service through control of the quality of supply (i.e. the legal service providers); for example, the Counter could preferably - or perhaps even exclusively - refer clients to certified providers of legal services;

- a new electronic system for making appointments with attorneys would be introduced; the staff of the Counter would in due course make appointments with the law office automatically by entering them in the system;
- the Counter would refer clients not only to attorneys but also to other types of service provider; use could be made not only of attorneys but also of mediators, debt counsellors, legal aid lawyers and social workers. This would strengthen competition since providers would have to compete for their market share. This would be bound to benefit litigants and would ensure that the authorities are not dependent on a single professional group for the provision of legal aid work;
- the extended consultation service at the Legal Advice and Assistance Centres would disappear and would be replaced by a 'light' form of assignment; in other words, the work could be assigned to all attorneys (and not just to the staff lawyers of the Centres). Litigants requiring only limited assistance could be helped for just half of the own contribution. However, this contribution would be a good deal higher than the present €13.50.

Airing of criticism

Naturally, there is also criticism of the proposals, mainly from the Legal Advice and Assistance Centres whose existence is threatened.

- The chief criticism is that the service will no longer be cheap. As explained above, this does not apply to the Legal Services Counter. This service is free and would remain so. Indeed, it would even be extended for an extra half an hour. Nothing would change with regard to the system of assignment, apart from the announced increase in the client's own contribution. This would indeed create problems, but they are unconnected with the introduction of the Legal Services Counter.
The discussion about costs has been muddied by the Ministry's recently announced plans to raise the client's own contributions in the case of assignment. This decision will make part of the service more expensive and could thus adversely affect the accessibility of the system. However, this has nothing to do with the Legal Services Counter. The increase in the client's own contribution would be introduced even if the present system were to be left unchanged.
- According to the critics, the disappearance of the extended consultation service would be a severe loss. However, it would be replaced by the 'light' assignment, which would have a much wider distribution since all attorneys who participate in the system could in future add this reduced-rate service to their range of services. On the other hand, the client's own contribution (presently € 13.50) will be increased. Although the increase will admittedly have the desirable effect of obliging potential litigants to make a careful assessment of their position in the light of the potential expenses, it may also have the undesirable effect of deterring some people from using the service (thereby causing under-use of the system).
- Another criticism is that the Bar will make no provision for these extended consultations. However, this relates only to a relatively small number of hours compared with the total time spent. In addition, it may be expected that a large number of the Centres' staff lawyers will go into private practice, thereby increasing supply of legal advice and safeguarding the expertise available for the extended consultations.
- Doubts are also expressed about the quality of the staffing of the Legal Services Counter. In my view, there is no reason to suppose that lawyers or legally trained staff from

colleges of higher education would not be able to provide quality staffing¹⁰. In addition to the higher vocational staff, qualified lawyers will also act as service providers in the Legal Services Counter. The service will be for visitors and for people who contact the Counter by telephone or online. Training and a varied caseload will make the work challenging and interesting for the staff. To a large extent, the work will be a continuation of the existing service. In addition, experience gained in the past with legal aid lawyers and the experiments with legal assistants at the Legal Aid, Advice and Assistance Centres show that this is perfectly possible. A high calibre Legal Services Counter would undoubtedly attract high quality legal staff.

Decision-making

The political decisions on the alterations to the system have not yet been completed. In April 2002 the State Secretary for Justice (who was then responsible for the system) informed the House of Representatives that she considered the advisory report of the Ouwerkerk Committee to be clear and consistent and that she wished to adopt the recommendations. She hoped that this would remove the long-standing uncertainty about the direction in which the system would evolve. She noted, however, that the proposals needed to be elaborated in more detail and the organisational and financial consequences to be accurately determined. After the new government took office in mid-2002 the legal aid portfolio was reassigned to the Minister of Justice. The Minister submitted a detailed plan to the House of Representatives on 16 December 2002. In April 2003 the House of Representatives held a committee meeting on the review of the system in preparation for a full debate in the House before the summer recess.

Generally speaking, it should be noted that the current political situation in the Netherlands does not provide a good climate for rapid decision-making on important areas of policy. The fall of two governments (and hence two long periods of a caretaker administration) followed by two general elections in the space of eight months has resulted in a good deal of delay and lack of clarity. This has had an impact on the decisions on the future of the legal aid system. A parliamentary debate on the proposals outlined above was planned for May, but it is uncertain whether this debate will take place in view of the current political situation and, even if it does, whether final decisions can be quickly taken.

If the political decision-making process can be completed in the near future, the introduction of the changes to the system can be quickly implemented. The Legal Aid Boards will be in charge of this. They will press, among other things, for adequate registration and provision of information. In this way trends and effects can be closely monitored. Where necessary, policy can then be adjusted at any given moment. In addition, this would make it possible for interested parties in other sectors or other countries to be informed in the relatively near future about the progress and results of the changes to the system.

¹⁰ See also the decision of the State Secretary for Education to allow seven colleges of higher education to provide courses in law. Communication of 12 March www.regering.nl/actueel. The State Secretary expects that the provision of a wider range of courses will better meet the needs of the public, private and other sectors. Graduates of these courses could, for example, prepare legal files and deal with the less complex claims. Such courses at the colleges of higher education could also help to fill the existing vacancies in the public prosecution service, the judiciary and the legal aid sector.

Facts and figures

The Dutch Legal Aid Act creates a scheme or program for providing legal aid, which includes both legal representation and legal advice, to people that are entitled for it. The expense is partly paid out of the Legal Aid Fund, financed by the State and partly by a means-tested contribution of the individual client. This latter contribution might be zero.

The administration and expenditure of the Legal Aid Fund as well as the policy related issues are entrusted to 5 Legal Aid Boards (We call them Raden voor Rechtsbijstand). These Legal Aid Boards were introduced in 1994. The legal aid boards are set up as independent management bodies. They took over the assessment of applications for legal aid from the legal aid and advice centres, the assessment of declarations from the court administration and the funding of the Legal Aid and Advice Centres from the Ministry. The boards were also assigned the power for admitting lawyers to the system and to entering into agreements with third parties. The boards have simultaneously taken over the responsibility for the emergency defender service (duty solicitors).

The legal aid and advice itself is provided by 13 Legal Aid and Advice Centres (43 business units) staffed by 250 lawyers and by 6,300 lawyers in the private practice who fall under the scheme; this on a total Dutch population of 16 million people.

The majority of private lawyers offer legal aid in some way to citizens with a small income. The motivation for this and the extent to which it happens varies sharply.

The Structure of the Legal Aid System

The right to legal aid is based on the Dutch Constitution stipulating that those who cannot afford the costs resulting from legal services needed are entitled to rely on the provisions as stated in the Legal Aid Act. According to the most recent estimations some 48% of the Dutch population is entitled to do so.

The legal aid act specifies three types of services clients can apply for.

- 1) All kind of legal problems (civil, administrative, criminal, immigration) can be put before staff lawyers of the Legal Aid and Advice Centres. During the so-called consultation hours, they can provide half-an-hour free legal aid. The decision whether or not the applicant falls within the limits set by the law is based only on a marginal means test by the centres' staff.

163,000 citizens obtained advice and information in this way during the year 2002 from the members of staff of the Legal Aid and Advice Centres. To a limited degree also private lawyers provide this type of service to a limited degree (at this moment 2,000 cases per year), but those who do they need a specific agreement with the Legal Aid Board in their district.

- 2) If a legal problem needs more than half-an-hour of lawyers' services whereas at the same time the problem is expected to be solved in a relatively quick way, the Legal Aid and Advice Centres' lawyers can also provide legal aid for a further three hours. The applicant is required to pay a financial fee of € 13,5. Access to these services is based on means testing in a very marginal way.

In the year 2002, 36,500 citizens used this type of service only to be provided by the Legal Aid and Advice Centres.

- 3) When solving a problem needs three hours and a half at a minimum, applicants are entitled to legal aid based on what is called: a certificate. To this, the client has to provide (extensive) documents with regard to his income as well as his capital. Based on those documents and a qualification of the legal problem given by the lawyer, the Board has to decide whether or not the application is granted. If so, the applicant is required to pay a financial contribution according to his income. The amounts range from a minimum of € 64 to a maximum of € 551. In exceptional cases, exemption from this contribution is possible, particularly in criminal cases and asylum cases. If the applicant needs a second certificate within a period of six months, the required financial contribution will be reduced.

The decision on a request is taken formally and is surrounded by legal guarantees for the citizen seeking justice and the legal aid provider. This 'certificate procedure' applies to long-term legal aid by lawyers from the Legal Aid and Advice Centres, but also in particular for solicitors.

When a case has been completed, the lawyer bills the Legal Aid Board for the hours spent. Lawyers are paid with a fixed fee, according to a scheme, which differentiate lawyers' reimbursement taking into consideration the type of problem and the type of services provided (advice or procedural assistance) as well. Also the laboriousness of the case is taken into account. The current (2003) average hourly tariff is € 87.

303,000 certificates were issued to solicitors in 2002 (160,000 civil and administrative LAW, 117,000 criminal LAW and 53,000 in asylum cases). 8,500 certificates were issued to staff lawyers employed by the Legal Aid and Advice Centres. We also had 75,000 duty solicitors certificates.

Private lawyers handle by far the most legal aid certificates. Actually approximately 54% of the Dutch bar (11,800 lawyers) take part into the legal aid system, most of them on a very modest scale.

Of the participating lawyers in the system,
8% do < 11 certificates per year
35% do > 10 and < 51 certificates per year
25,5do > 50 and < 101 certificates per year
21% do > 100 and < 201 certificates per year
10,5do > 20 certificates per year.

Private lawyers hardly provide the short-term type of legal aid, which is predominantly given by the staff lawyers employed by the Legal Aid and Advice Centres. Private

lawyers' predominance in the certificates is caused partly because of their specialism into family law, contract law, criminal law and asylum law, partly because of the required representation in court in a number of procedures at the District Courts, Courts of Appeal and the Supreme Court as well. There are only a few limitations in legal fields where legal aid by a lawyer is not possible.

Although the Legal Aid and Advice Centres provide all types of legal aid, they specialise in short-term legal aid services. They are almost exclusively occupied with legal aid to citizens with medium and low incomes. They have mainly concentrated on the social legal fields.

Approximately 95% of their cases can be dealt with during their running hours in a way as they call it: 'one touch, one play'. Those centres have become specialised in a number of fields of social law e.g.: labour law, social security, housing, immigration law and consumer law. These Legal Aid and Advice Centres employ approximately 250 (fte) staff lawyers.

In addition approximately 90 (fte) staff lawyers are employed by three asylum Legal Aid and Advice Centres that, of course, focuses on providing legal aid to asylum seekers. They work on the same basis as the Legal Aid and Advice Centres, but only in this specific legal area.

The staffmembers in the Legal Aid and Advice Centres are professional solicitors, who in terms of education and expertise are comparable with the legal profession. These solicitors are also increasingly joining the legal profession. This makes it in principle possible to extend the service offered. Several legal procedures are namely legally reserved for lawyers in the Netherlands.

The Legal Aid and Advice Centres are special phenomena for various reasons. They are low-threshold organisations with a good geographical spread. The professional solicitors can quickly solve many simple problems and refer the other problems effectively to specialised lawyers.

The Legal Aid and Advice Centres are initially financed by the Boards on the basis of formation places related to the expected production, and since 2001 on the basis of achieved output.

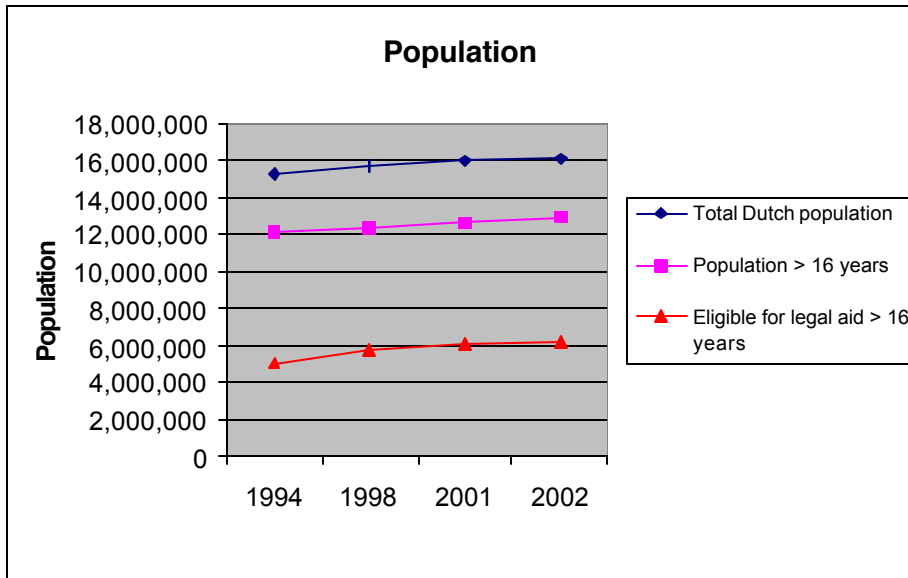
Since 1998, the Legal Aid and Advice Centres have fulfilled what is known as the first line service (the public function) in the system. This function is intended to guarantee an initial inclusion in the system, whereby the citizen is shown the way in the system and if necessary referred to the legal aid function. The Legal Aid and Advice Centres receive separate funds for the public function. This function is subject of discussion in the Netherlands at the moment (see my paper The future of Legal Aid in the Netherlands).

So in total there are about 550,000 applications a year for legal aid in the Netherlands. The provision reaches about 6.2 million citizens. The extent to which this corresponds to the actual demand in the target group is not completely known. The Legal Aid Boards will further investigate in the near future if and if so what the latent demand is and how this can be mobilised. This information is indispensable for

a good assessment of the system. What is of importance is that there are virtually no exclusions in our system for legal aid. Certainly in the Legal Aid and Advice Centres, all questions of legal relevance can be submitted for advice.

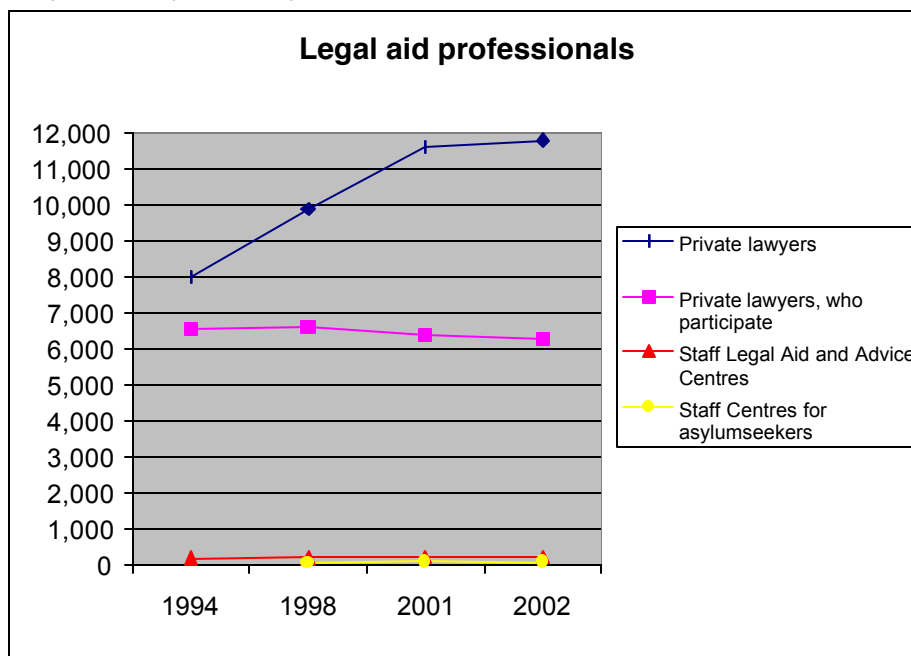
Figures

Population	1994	1998	2001	2002
Total Dutch population	15,300,000	15,650,000	16,000,000	16,105,000
Population > 16 years	12,100,000	12,300,000	12,600,000	12,948,000
Eligible for legal aid >16 years	5,100,000	5,800,000	6,100,000	6,215,000

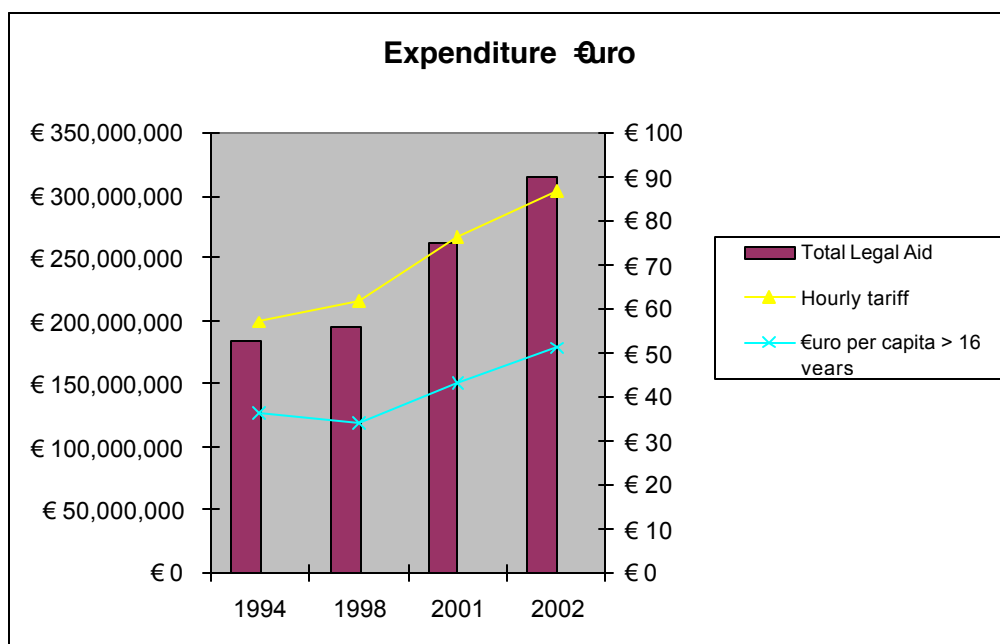


Legal aid professionals	1994	1998	2001	2002
Private lawyers	8,000	9,900	11,600	11,800
Private lawyers, who participate	6,550	6,600	6,400	6,300
Staff Legal Aid and Advice Centres	200	210	250	250
Staff Centres for asylumseekers		60	100	90

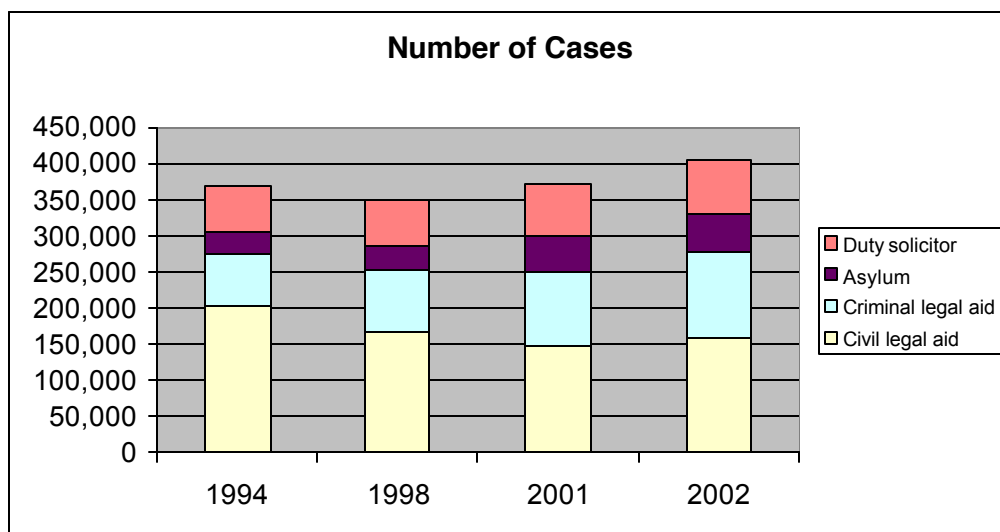
'Lawyers density': one lawyer per 1365 habitants



Expenditure €uro	1994	1998	2001	2002
Total Legal Aid	€184,000,000	€195,000,000	€262,000,000	€315,000,000
€uro per capita >16 years	€ 36,-	€ 34,-	€ 43,-	€ 51,-
Hourly tariff	€ 57,-	€ 61,5	€ 76,-	€ 87,-

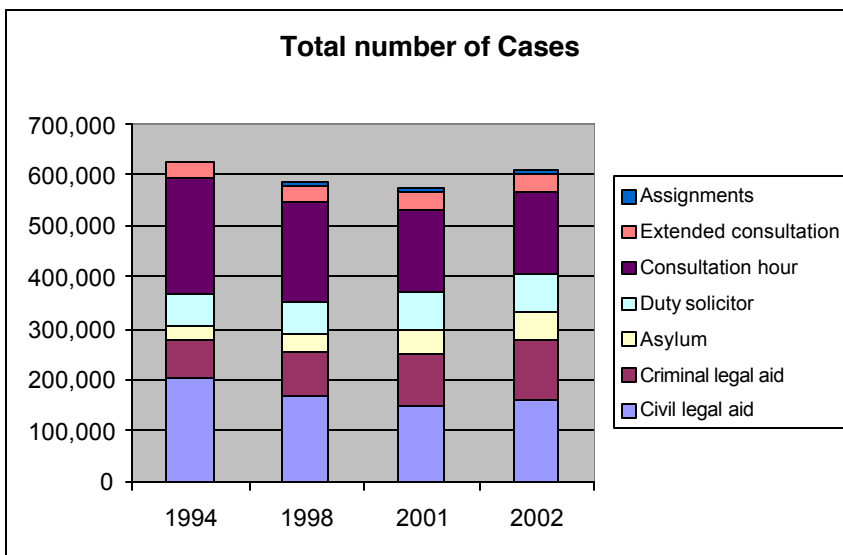
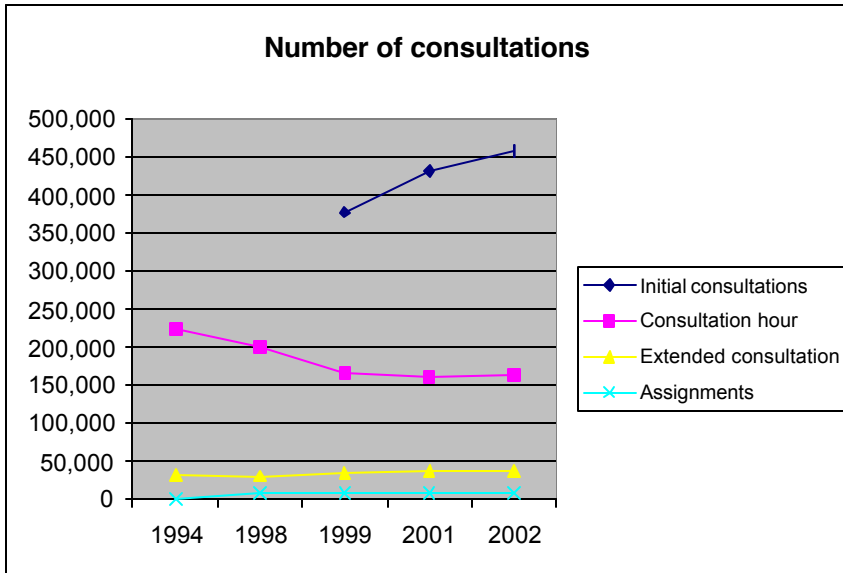


Number of Cases	1994	1998	2001	2002
Civil legal aid	202,000	166,000	148,000	160,000
Criminal legal aid	73,000	87,000	102,000	117,000
Asylum	30,000	33,000	50,000	53,000
Duty solicitor	65,000	64,000	72,000	75,000



Number of consultations Legal Aid and Advice Centres (LAAC)

	1994	1998	1999	2001	2002
Initial consultations ¹	-	-	377,000	430,000	457,000
Consultation hour ²	225,000	200,000	166,000	160,000	163,000 ³
Extended consultation ⁴	32,000	28,500	34,000	36,000	36,500 ⁵
Assignments ⁶	374	6,700	6,200	7,100	8,500 ⁷



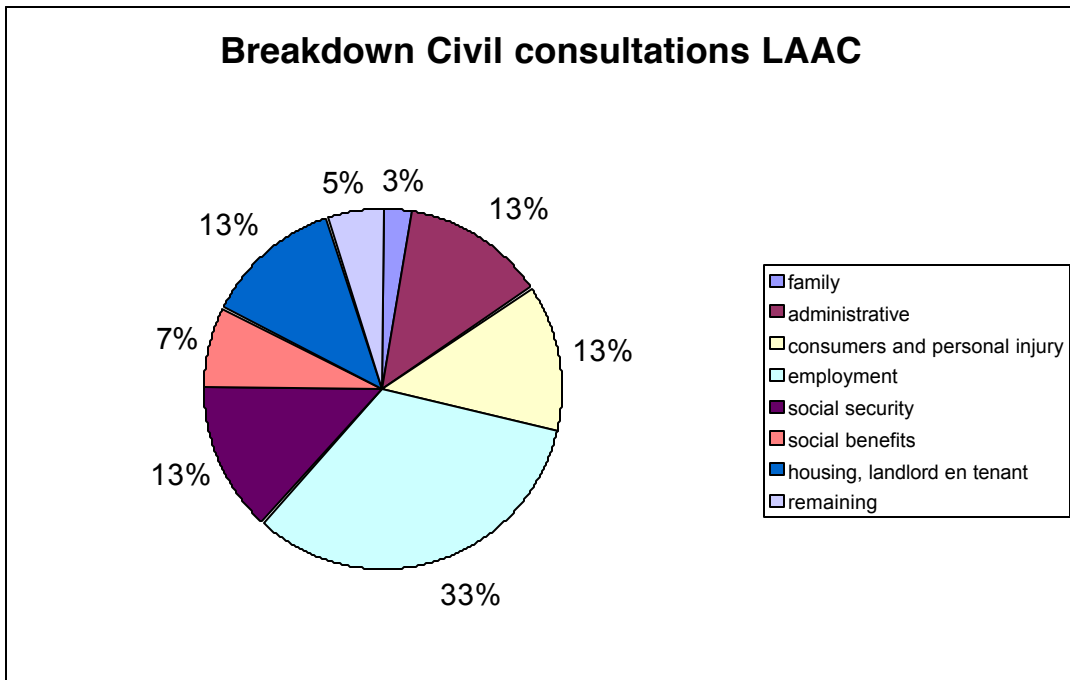
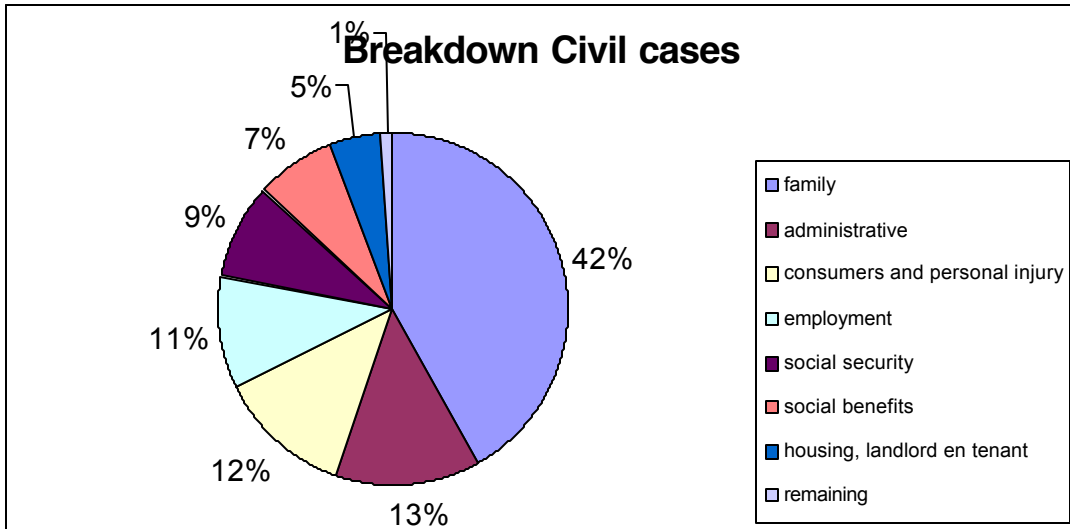
¹ consultation and telephone contacts
² time consult < 0,5 hour
³ 10,900 advice in criminal cases included
⁴ 0,5 hour < time consult < 3,5 hours
⁵ 6,315 advice in criminal cases included
⁶ Time consult > 3,5 hours
⁷ 234 criminal cases included

Breakdown Civil cases

family	42,0%
administrative	13,3%
consumers and personal injury	12,2%
employment	10,6%
social security	8,8%
social benefits	7,3%
housing, landlord en tenant	4,6%
remaining	1,2%

Breakdown Civil consultations LAAC

family	2,5%
administrative	12,7%
consumers and personal injury	13,4%
employment	33,3%
social security	13,3%
social benefits	7,4%
housing, landlord and tenant	12,5%
remaining	4,9%



**€urotable income and contributions
since 1/1/2003**

net income a month	client's contribution	net income a month
single	since 1/1/2003	married or single with child(ren)
000 - € 805*	€ 64	0000 - € 1,130*
€ 805 - € 867	€ 102	€ 1,131- € 1,218
€ 868 - € 915	€ 150	€ 1,219 - € 1,286
€ 916 - € 951	€ 197	€ 1,287 - € 1,338
€ 952 - € 997	€ 243	€ 1,339 - € 1,404
€ 998 - € 1,040	€ 284	€ 1,405 - € 1,465
€ 1,041 - € 1,079	€ 328	€ 1,466 - € 1,521
€ 1,080 - € 1,123	€ 371	€ 1,522 - € 1,584
€ 1,124 - € 1,170	€ 417	€ 1,585 - € 1,650
€ 1,171 - € 1,212	€ 454	€ 1,651 - € 1,711
€ 1,213 - € 1,254	€ 504	€ 1,712 - € 1,770
€ 1,255 - € 1,471	€ 551	€ 1,771 - € 2,067

* no contribution is owed in criminal cases

Capital:

- single: < € 6,370

- married or single with child(ren): < € 9,100

For the purpose of calculating capital, the first € 65,344 of the equity in an owner-occupied home (i.e. the value of the home less the outstanding mortgage) is not counted as capital.

Procedure to apply for a legal aid certificate

A client is free to contact any lawyer who is registered with one of the five (regional) Legal Aid Boards. Alternatively, a client may approach a Legal Advice and Assistance Centre. Such centres are situated in every large Dutch town.

Step 1

The client approaches the lawyer of his choice or a Legal Advice & Assistance Centre

Step 1a

If the client approaches a Legal Advice & Assistance Centre, he is entitled to half an hour's free advice or 3½ hours advice for € 13.50. If his case takes more time to process, it is dealt with in the manner indicated from step 2 below onwards.

Step 2

The client explains his problem and the lawyer estimates whether or not he has a case. The lawyer also checks whether or not he himself is permitted to deal with this type of case, given the substantive criteria applied by the Legal Aid Boards (tests of the lawyers' expertise in specific areas of law).

Step 3

The lawyer informs his client about the means test he has to pass. To this end, the client has to fill out a form providing information about his personal circumstances (whether or not he is cohabiting) and his financial means (income, capital and liabilities), on the basis of which it is decided whether he is entitled to legal aid. The client has to sign the form in order to validate it.

Step 4

The client hands the validated form to his lawyer.

Step 5

The lawyer lodges a legal aid application with the Legal Aid Board. In addition, the lawyer has to explain to the Board what kind of services he will provide to his client (i.e. assistance with legal proceedings or merely the provision of advice).

Step 6

The application is then assessed by the Legal Aid Board, which examines the type of problem and its legal grounds. In addition, if the client qualifies for legal aid both on substantive grounds and in accordance with the financial criteria, the Legal Aid Board computes the financial contribution the client has to pay under the statutory scheme.

Step 7

Leaving aside eventual correspondence between the Board and the lawyer in order to clarify the lawyer's case, the decision taken by the Board is forwarded to the lawyer and his client too. If legal aid is granted, the lawyer can proceed with the case as soon as the client has paid his own contribution. If the client applies for a second time within a period of 26 weeks, he is entitled to a reduction of the amount he himself must pay (this is also true under the statutory scheme).

If the application for legal aid is not granted by the Board, the client and the lawyer can appeal.

Step 8

Once the case is over, the lawyer sends both the original decision (see step 7) and his invoice to the Board. On the back of the form he stipulates the kind of services he has actually provided and the amount of time spent. If applicable, he must also indicate the type of legal authority to which the case has been presented and submit documents relevant to the proceedings (e.g. a court judgement).

Step 9

Once the invoice has been completed, the Board determines the lawyers' fee according to a statutory scale. In fact, a lawyer is able to calculate beforehand how much he will receive under the scheme, less the client's own contribution. If a lawyer complies with some extra quality standard set by the Board, he will receive an extra allowance on top of his normal fee. The lawyer receives a copy of the calculation, against which he may appeal.

Step 10

The lawyer is paid by the Board, which subtracts the amount from the quarterly advance paid by the Board. The amount of the advance paid to the lawyer is based on the number of legal aid certificates issued by the Board in the previous year (It is also possible for a lawyer to arrange to be paid once a month, but in this event he does not receive an advance).