

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 differentiates 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
25,5% do > 50 and < 101 certificates per year
21% do > 100 and < 201 certificates per year
10,5% do > 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.

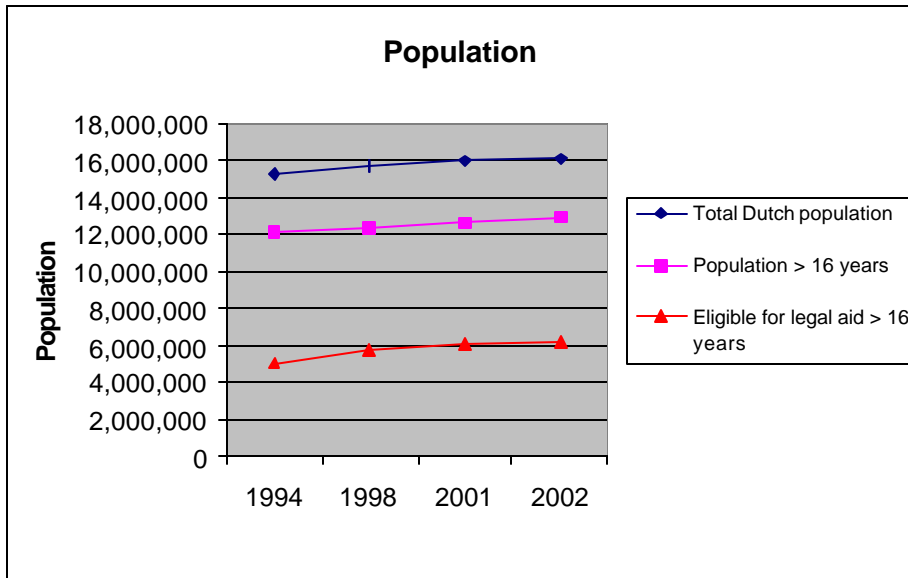
Since 1998, the Legal Aid and Advice Centres have fulfilled what is known as the first line service (the public function) in the system. This function is intended to guarantee an initial inclusion in the system, whereby the citizen is shown the way in the system and if necessary referred to the legal 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.

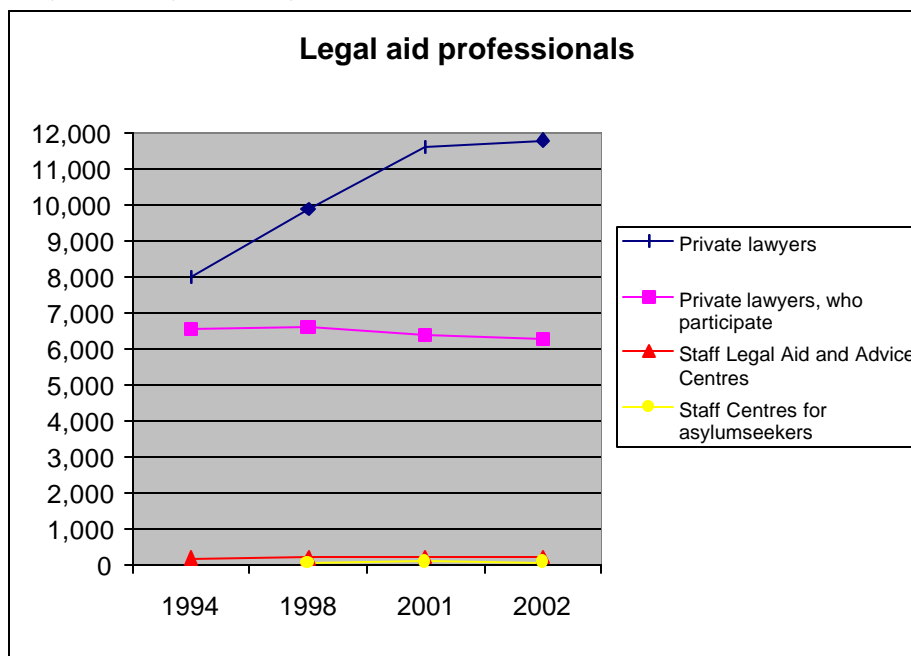
Figures

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

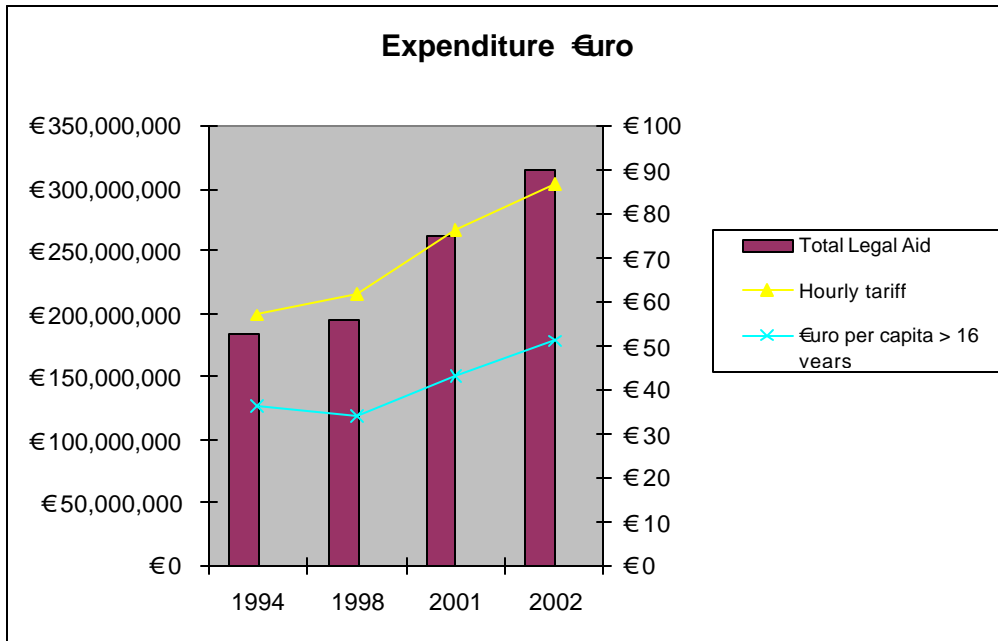


Legal aid professionals	1994	1998	2001	2002
Private lawyers	8,000	9,900	11,600	11,800
Private lawyers, who participate	6,550	6,600	6,400	6,300
Staff Legal Aid and Advice Centres	200	210	250	250
Staff Centres for asylumseekers		60	100	90

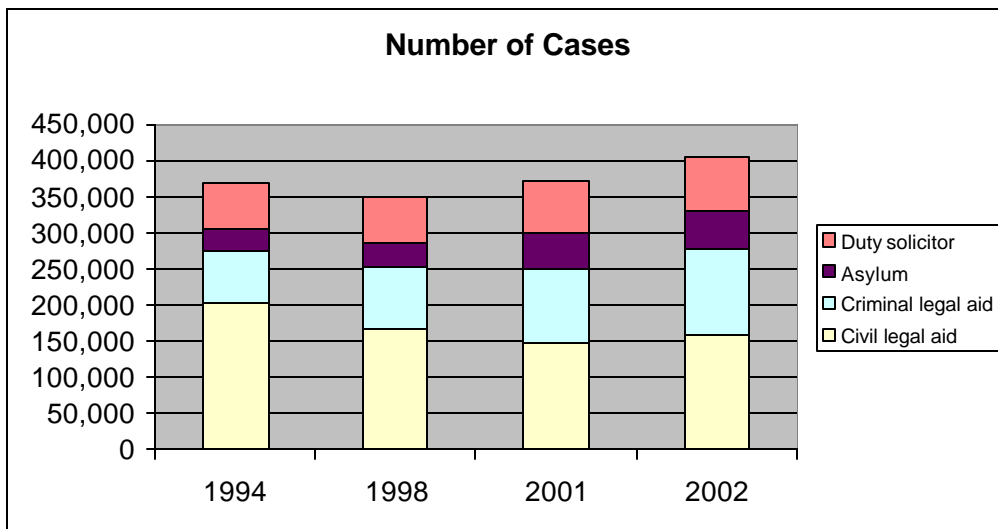
'Lawyers density': one lawyer per 1365 habitants



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,-

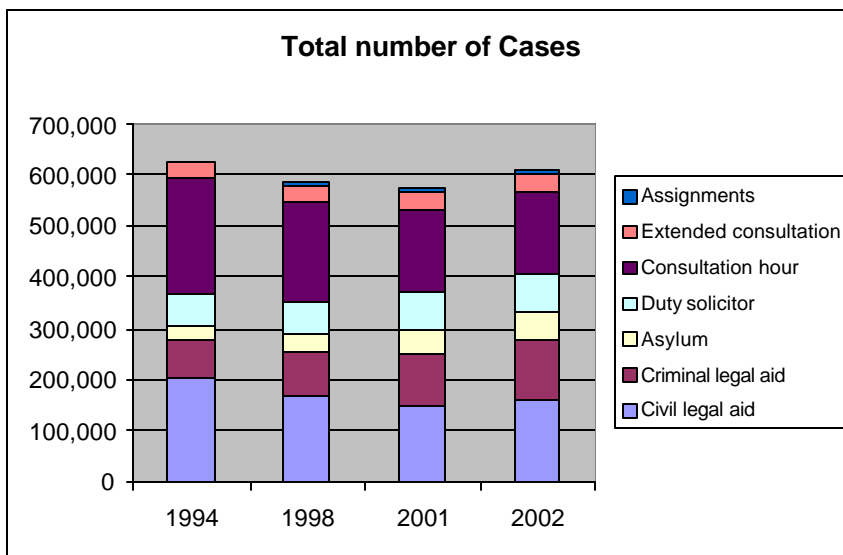
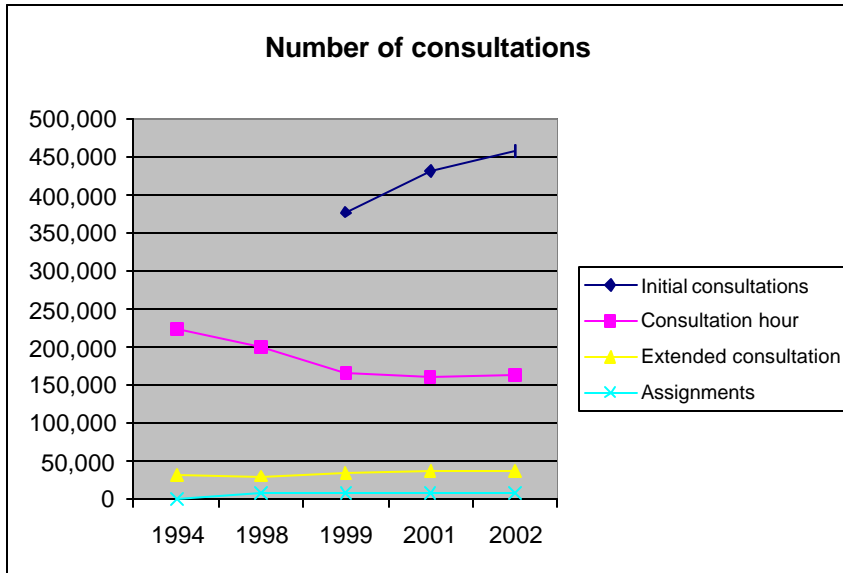


Number of Cases	1994	1998	2001	2002
Civil legal aid	202,000	166,000	148,000	160,000
Criminal legal aid	73,000	87,000	102,000	117,000
Asylum	30,000	33,000	50,000	53,000
Duty solicitor	65,000	64,000	72,000	75,000



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



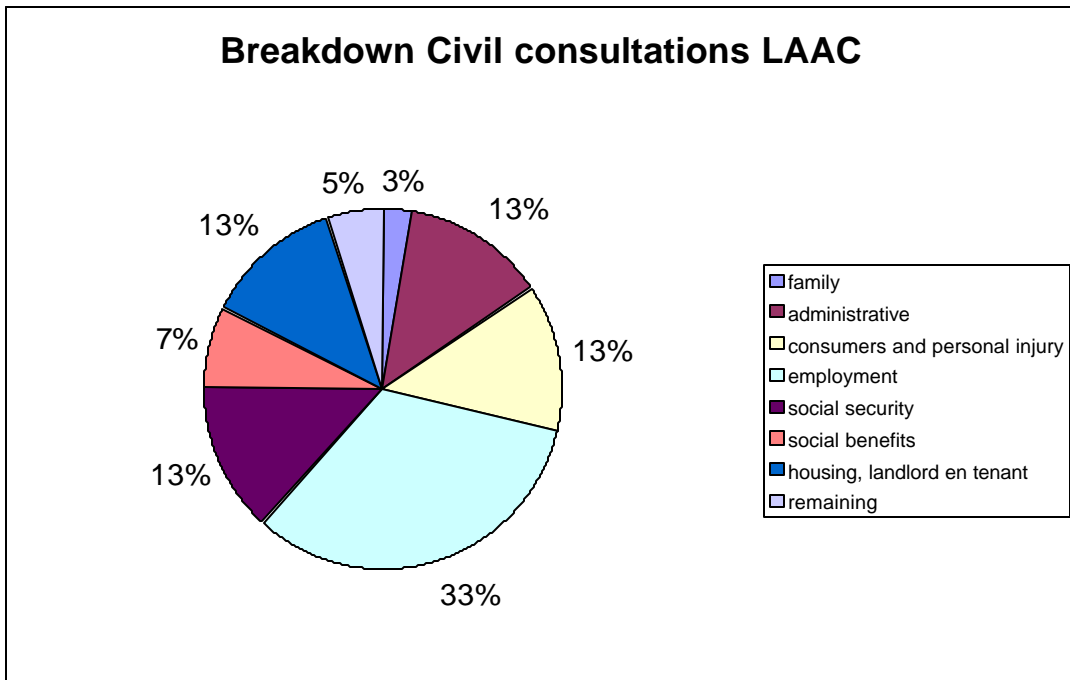
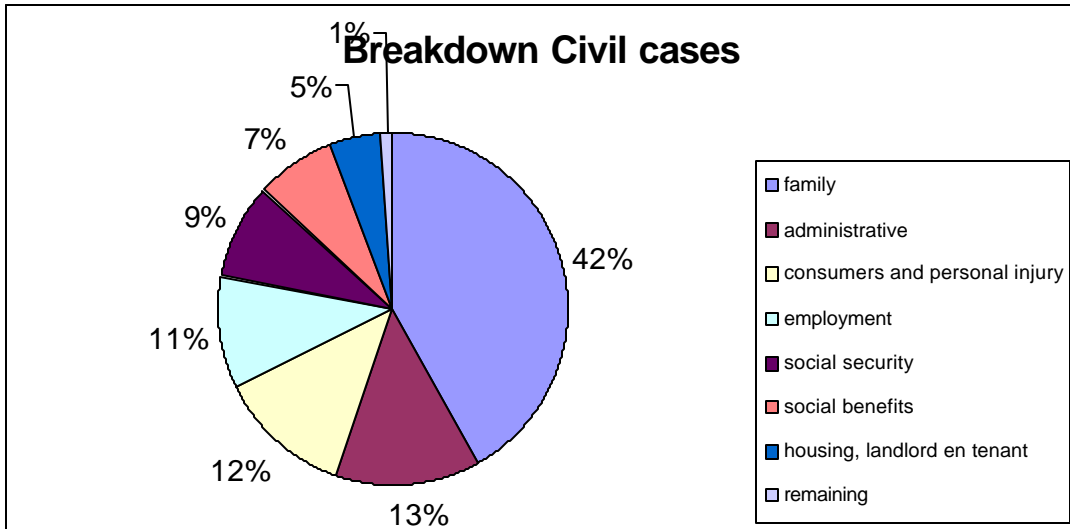
¹ consultation and telephone contacts
² time consult < 0,5 hour
³ 10,900 advice in criminal cases included
⁴ 0,5 hour < time consult < 3,5 hours
⁵ 6,315 advice in criminal cases included
⁶ Time consult > 3,5 hours
⁷ 234 criminal cases included

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).