



Legal Aid in the Netherlands
a broad outline - Edition: May 2021

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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 regarding 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 in the regulations 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, over 36% of the Dutch population (with a total of 17,4 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 through an income-related contribution of the individual client.

Residing under the competence of the Ministry of Justice & Security (J&S), 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 supply of legal experts with the demand for legal aid, as well as the supervision and quality control of the actual services provided. Yearly, key figures are published that report on the previous year's situation.

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.'

Financed by the Ministry of J&S, the LAB accounts to this ministry for its budgetary allocations. The legal aid system operates according to an open end provision. In comparison with the start of the system in 1994, spending on legal aid more than doubled in 2012. However, the upward trend then came to an end in the following years (see Table 1).²

Table 1 Dutch population and expenditure on legal aid

	1994	1998	2002	2006	2010	2014	2018	2020
Total Dutch population*	15,300	15,650	16,105	16,334	16,575	16,829	17,181	17,408
Total expenditure on legal aid in Euro*	184,000	195,000	315,000	398,000	472,000	432,000	395,000	441,000
Expenditure per capita in Euro	12	12	20	24	28	26	23	25

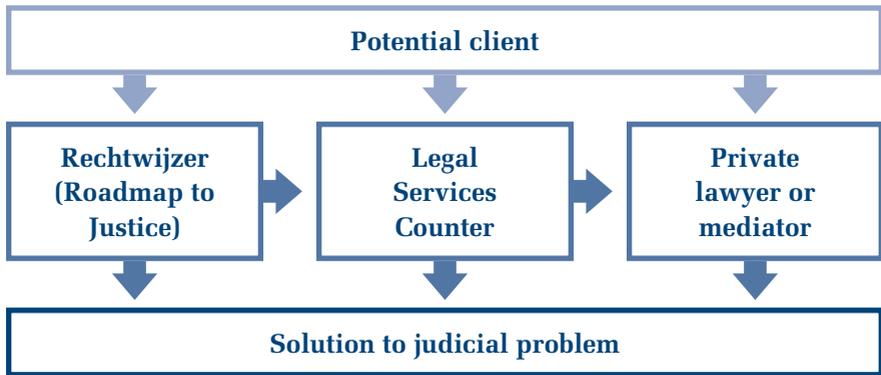
*in thousands

Threefold model

The Dutch legal aid system is basically a threefold model. It encompasses three 'tiers' providing legal aid (see figure 1 for a schematic representation). The legal aid system, therefore, is a mixed model, consisting of a public preliminary provision, public first-tier and private second-tier help.

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.

Figure 1 Schematic representation of the legal aid system



1. Online self-help, information and support is offered on the *Rechtwijzer* website (*Rechtwijzer* translates into Roadmap to Justice; see www.rechtwijzer.nl) and on the website of the Legal Services Counter. *Rechtwijzer* is a preliminary provision and offers interactive 'decision trees' helping people to assess their situation. In addition *Rechtwijzer* provides easy-to-understand information and guidance on possible solutions for the most common legal problems. *Rechtwijzer* combines publicly run guided pathways for common legal problems with online products and services from private service providers. In 2020 *Rechtwijzer* is supplemented with *Rechtwijzer EHBO* ('First aid for solutions'). This decision tree is aimed at early identification of multiple problems. The Legal Services Counters (see section 2 below) also have a website that can be used 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 is given. Clients may be referred to a private lawyer or mediator, who act as the secondary tier 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, such as legal advisors or Consumer and Rent Tribunals.
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 (with fixed surcharges if applicable), although exceptions can be made for more time consuming cases.

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, by offering the website Rechtwijzer (www.rechtwijzer.nl). Rechtwijzer is a preliminary provision that helps people find solutions for their legal problems in an interactive manner. In this way, citizens are empowered to navigate easy-to-use processes to solve their problems. In their own time, at their own pace, against low or no cost, and with assistance when needed. Rechtwijzer combines publicly run guided pathways for common legal problems with online products and services from private service providers meeting Rechtwijzer's rigorous quality standards.

For instance, Justice42 offers the online divorce platform uitelkaar.nl, with public legal aid available for low-income clients. In over 60% of the cases, one or both (ex)partners receive public legal aid, showing that a considerable part of the target group of legal aid is capable of using online services. Another private provider on Rechtwijzer is the Arbeidsmarkt Research Institute based at the University of Amsterdam. They offer [MagOntslag](#), a tool for assessing the legal merits of a dismissal case. Using these tools, a letter can be drawn up for the employer, and a letter of objection or appeal can be drawn up for proceedings before the Court. More than 12,000 visitors of the website made use of these tools in 2020.

Rechtwijzer is continuously being further developed and improved through feedback from users and service providers. The new application Rechtwijzer EHBO is a quick scan for multi-problems that maps out people's legal and psychosocial problems. It has been developed in close cooperation with a renowned national social services organisation Mind Korrelatie.

Last year, Rechtwijzer has also been supplemented with a decision tree with information and help to draw up a letter of objection or complaint against a government agency. Also, people can go to the Rechtwijzer website for information about getting help with debts. This applies to both the process of debt counseling as well as the process of the (legal) debt restructuring program. Rechtwijzer also offers information, advice and a decision tree to calculate child support yourself. Currently Rechtwijzer works together with five law clinics and new tools are being developed in various areas of law to increase citizens' self-efficacy. Lastly, new grounds are being tested, such as the experimental space featuring Rechtwijzer and supplementary offline services in local libraries.

2. First-line legal aid: Legal Services Counters

Organisation of Legal Services Counters

The LSC act as front offices providing primary legal aid. They are fully financed by the Ministry of Justice & Security on the basis of a closed budget.

The organisation 'LSC' runs 30 offices and 13 service points around the country. These offices share a website and a call centre. Evenly set up geographically, every Dutch citizen is within easy reach of a Legal Services Counter, at a maximum of approximately one hour journey by public transport. The offices have a uniform and recognisable appearance. The premises of the Counters have been designed to look as inviting to visitors as possible. In fact, 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. Brochures and flyers containing information on legal matters are also available. 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 developed 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 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.

In addition to the offices, a large call centre was opened some years ago, 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 LSCs act as front offices providing 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. Services are free of charge, except the charge for telephone calls. 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 aimed at clarifying the nature of the problems. The legal advisors work with clients to find out:

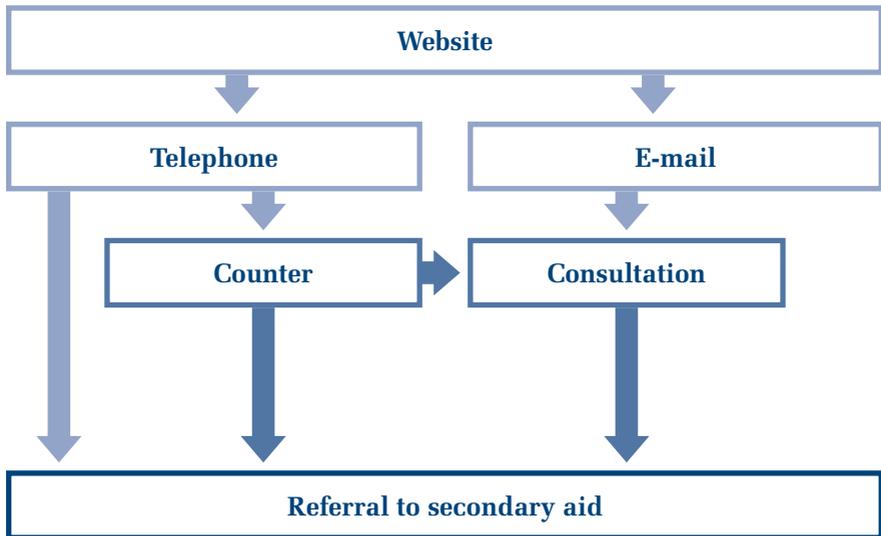
- whether the problem is actually a legal problem and, if so,
- whether the problem is within the scope of the legal services provided by the Counters (not all legal problems – e.g. those between businesses – are dealt with by the Counters);
- what kind of help is most suitable for the client.

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

The focus on primary legal aid serves two major goals. Firstly, the help provided is readily available and free of charge. That is why the LSCs 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 through 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 availability, specialism, travel distance between the office and the client's home, and the number of referrals that has been obtained recently. Software 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 the problem, including the preliminary advice (if any) that was given by 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-related activities' performed by LSC amounted to 584,000 in 2020. A client-related activity may take place through direct contact with the client or via other 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 show the nature of the client-related activities at the LSC. Most activities consist of contact by phone (62% of the client activities) (see table 2). Since the COVID-19 crisis, counters have been closed and also visits to the consultation hour have been limited.

Table 2 Nature of client activities of Legal Services Counters (2020)*

	Total number 2020	Percentages 2020
Contact time		
Telephone 0900	348,000	60
Counter	25,500	4
Consultation hour	9,500	2
Telephone, other	10,500	2
E-mail	105,500	18
Non-contact time		
Researching	84,500	14
Total	584,000	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 2020. That's why the number of clients is lower than the number of client activities. 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 involves providing information and answering questions (79%). Clients are also referred to the consultation hours (5%), to lawyers (14%), to mediators (<1%) or to other network partners (2%).³

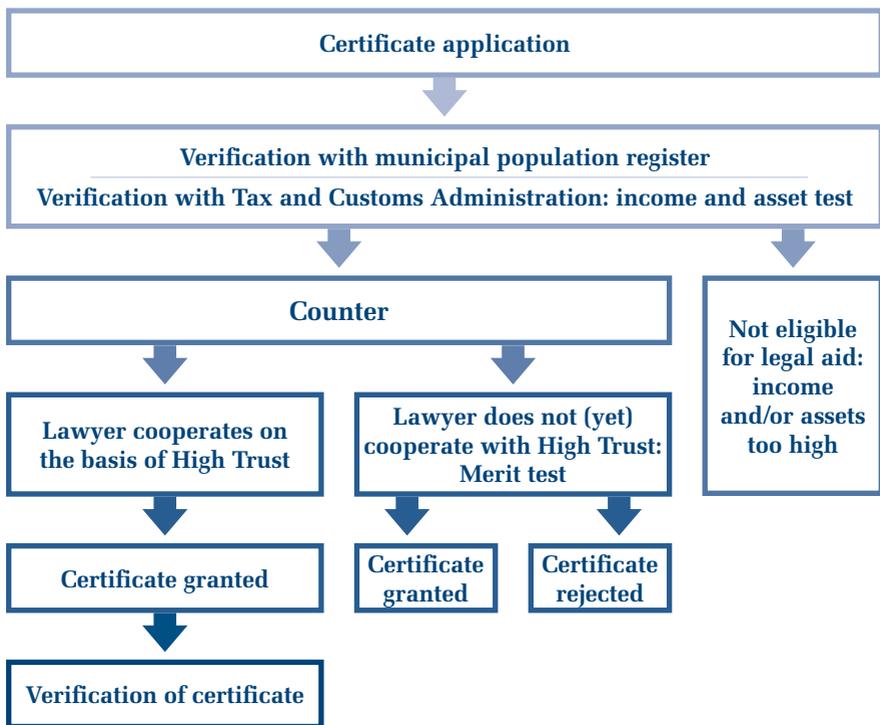
The majority of inquiries concern employment (29%), family law issues (15%), contract/consumer law issues (14%), housing (11%), and administrative law, including social security (9%).

³ These percentages are based on the figures of 2019.

3. Secondary legal aid: Certificates

In order to obtain a certificate, a (LAB-registered) lawyer submits an application to the LAB on behalf of his client. Most applications are submitted electronically. The LAB assesses each application both in terms of the client's income and assets and the (financial) significance of the legal problem in question. Figure 3 shows the route followed by the application for a certificate.

Figure 3 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. The online connection with the tax authorities allows the Legal Aid Board to rapidly obtain information concerning the applicant's income and assets.

Assessment of the applicant's income and assets level (and hence the eligibility for legal aid) is based on the financial situation two years prior to the application date, ('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 2020, the applicant's income in 2018 is decisive. In order to qualify for legal aid in 2020, the applicant's income in 2018 should not be higher than € 27,900 (single person) or € 39,400 (married persons / single person with children). The applicant's assets must not exceed € 30,846.

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. To be eligible to change his reference year, an applicant's current income needs to have decreased by at least 15% compared to the reference year.⁴

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 In 2019, more than 9.500 requests to change the reference year were made. This amounts to 2.4% of the total of legal aid certificates granted. This is checked two years after the application.

Also non-Dutch litigants receive legal aid when they have a problem that concerns the Dutch legal system.

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 and mediators 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 and mediators 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 developed specific tools for compliance assistance, such as information and instruction meetings, which are free of charge for lawyers and mediators 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. In 2009, the Board started with its first High Trust pilot. Since 2011, the Board has been implementing High Trust across the country in phases. At the end of 2020, more than three quarters of the certificates are issued to lawyers and mediators who work based on the principles of High Trust.

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 and mediators that work together with the Board according to High Trust are accepted automatically. This means that the client will very soon receive confirmation on whether or not the application has been 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 solely paid by the LAB. Partly they are covered by the contribution from the client. The personal contribution, though often covering only a small part of the actual expenses, is an incentive aimed at clients to carefully consider the pros and cons of taking a matter to a lawyer, hence discouraging frivolous or minor cases to be brought to the legal system, which, as a result, leads to better control of the costs of legal aid.

In July 2011, the '*diagnosis and triage*' procedure was implemented. The procedure encourages citizens to take their problem to the Legal Services Counter first. The expectation was that the measure would lead to problem-solving at an earlier stage or via a different channel, and would lead to less applications for certificates.

Citizens 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.⁵ Because of the lockdowns caused by the COVID-19 pandemic in the spring of 2020, it is – temporarily - not necessary to contact the LSC to make use of the '*diagnosis and triage*' procedure. The discount is automatically given to everyone who needs a certificate. This also resulted in a decrease in people contacting the LSC.

⁵ There are also cases in which the discount is automatically given, for example in criminal cases.

In 2020, contributions to be paid by clients varied from € 203 to € 853 per case (depending on income, see Table 3). The third column shows what a person pays if he first submits his problem to the LSC. Individuals whose household income exceeds € 39,400 (partner income included) or € 27,900 (single) are not entitled to legal aid.

Table 3 Income and client's contribution, from 01-01-2020

Taxable annual income: married/ single with child(ren)	Client's contribution		Taxable annual income: single
	Without discount	With discount	
≤ € 27,500	€ 203	€ 148	≤ € 19,800
€ 27,501 t/m €28,500	€ 373	€ 318	€ 19,801 t/m € 20,500
€ 28,501 t/m € 29,800	€ 533	€ 478	€ 20,501 t/m € 21,600
€ 29,801 t/m € 33,300	€ 694	€ 639	€ 21,601 t/m € 23,500
€ 33,301 t/m € 39,400	€ 853	€ 798	€ 23,501 t/m € 27,900

The level of the contribution increased in recent years as a result of budget cuts. These cuts have also led to higher contributions in case of certificates concerning divorce. For these separation-related certificates the following client's contributions apply:

Table 4 Income and client's contribution for divorce-related certificates, from 01-01-2020

Taxable annual income: married/ single with child(ren)	Client's contribution		Taxable annual income: single
	Without discount	With discount	
≤ € 27,500	€ 353	€ 298	≤ € 19,800
€ 27,501 t/m €28,500	€ 427	€ 372	€ 19,801 t/m € 20,500
€ 28,501 t/m € 29,800	€ 587	€ 532	€ 20,501 t/m € 21,600
€ 29,801 t/m € 33,300	€ 747	€ 692	€ 21,601 t/m € 23,500
€ 33,301 t/m € 39,400	€ 881	€ 826	€ 23,501 t/m € 27,900

Sometimes clients are exempted from individual contributions. This applies to all cases in which people have been deprived of their freedom against their will. 'Have-nots' (for example people who participate in the debt restructuring scheme) are also exempted from paying an individual contribution as well as victims of violent crimes and sexual offenses. In approximately 90% of the certificates granted, the person seeking justice falls under the lowest individual contribution category.

It is also possible to apply for a mediation certificate. This allows a client to call in the assistance of an independent mediator in order to help with solving a conflict. To stimulate the use of mediation, the contribution for mediation is generally less than the contribution for regular legal aid by a lawyer. In 2020 the contribution for mediation was set at a maximum of € 109.

In case of relatively simple legal problems, private lawyers can charge a standard three-hour legal advice fee, of which the client contributes € 80 or € 134, 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 01-01-2020

Taxable annual income: married/single with child(ren)	Client's contribution to legal aid; max. 3 hours	Taxable annual income: single
≤ € 28,500	€ 80	≤ € 20,500
€ 28,501 t/m € 39,400	€ 134	€ 20,501 t/m € 27,900

Certificates: facts and figures

In 2020 375,000 legal aid certificates were issued. Since 2000 the number of certificates has risen by 28%. An upward trend was visible until 2012. Since 2013 the number of certificates issued shows a decline. Whether this is due to the cutbacks in the system is not certain although it seems reasonable to assume. Also, what needs to be mentioned is that part of the certificates is not influenced by cutbacks because they are dependent on societal developments, such as the influx of asylum seekers.

Figure 4 shows the number of certificates issued since 2000.

Figure 4 Legal aid certificates issued since 2000



In addition to the regular legal aid certificates – 352,325 in 2020 – 7,866 ‘minor aid’ certificates (i.e. for max. three-hour legal aid) have been issued as well as 14,417 mediation certificates.

For every certificate issued, the LAB registers the pertaining field of law (table 6). Criminal cases (29%) and family related cases (22%) together make up approximately half of all issued certificates.

Table 6 Types of cases represented in legal aid certificates (2020)

	Number 2020	Percentage 2020
Criminal	104,500	29
Family	76,500	22
Psychiatric Hospitals (Compulsory Admissions) Act	36,000	10
Asylum	30,000	9
Contract/consumer	21,000	6
Social benefits	16,500	5
Immigration	16,000	5
Labour/employment	12,500	3
Housing	11,000	3
Social (security) insurance	9,500	3
Administrative	7,500	2
Pre-deportation detention	6,000	2
Other civil cases	3,500	1
Debt restructuring	2,000	<1
Total regular legal aid certificates	352,500	100
Mediation certificates	14,500	
Minor aid certificates	8,000	
Total	374,500	

Multiple use

In 2020, 72% of the clients had one certificate for legal aid. The average number of certificates issued per client per year is approximately 1.5.

Duty lawyers

Besides certificates, the LAB also provides duty lawyers. Each criminal suspect, immigrant or psychiatric patient who has been lawfully deprived of his liberty against his will is visited by a subsidised lawyer. The duty solicitor scheme, which uses a rotation system, ensures that there will always be a lawyer available. In 2020, legal aid provision through duty lawyers took place 108,481 times.

Table 7 Legal aid various duty lawyers in 2020

Kind of duty lawyer	2020
Criminal, incl. juvenile	95,000
Psychiatric	10,000
Asylum	3,000
Total	108,500

Compared to 2009, this type of legal aid increased by 16% in 2020. The reason for this rise lies in the procedural adjustments following the Salduz case. Following this judgment of the European Court in 2009, suspects are entitled to consult a lawyer prior to their questioning by the police.

4. Private lawyers and mediators working within the legal aid system

Legal aid in the Netherlands involves private lawyers/law firms providing legal advice and representation to clients in the following fields of law: criminal, family, labour/ employment, housing, social security, consumer, administrative, debt restructuring, Psychiatric Hospitals Act, 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 directly contacts a LAB-registered lawyer. 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.⁶

In order to be able to accept legal aid cases, private lawyers need to be registered with the LAB and to comply with a set of quality standards. For some fields of law – criminal, mental health, asylum and immigration law, youth, family law, victims of crime, housing, social benefits, and labour/employment – additional terms apply. The lawyer must both have adequate expertise and sufficient experience in the particular field of law.

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, with fixed surcharges if applicable. 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.⁷ A few examples are presented in Table 11. In cases that concern labour (dismissal), for example, lawyers will be paid 11 hours.

⁶ As mentioned above, it is temporarily not necessary to contact the LSC to make use of the 'diagnosis and triage' procedure.

⁷ Recently, these analyses have been repeated by a commission (Commission Van der Meer). This commission has indicated that the average time spent on cases does not correspond anymore with the fees that are paid to lawyers, because cases became more complex over the years.

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 underpaid. Since then, the Ministry determines the hourly rate every year following an annual price index. In 2020 the hourly rate was nearly € 111. This means for example that for each labour - dismissal case a lawyer is paid 11 times € 111 for legal aid. Previously the hourly wage was indexed every year. However, because of budget cuts, this amount has been reduced and fixed around € 106 for several years between 2012 and 2018. 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 5).

Figure 5 Schematic representation of the payment of the lawyer's bill

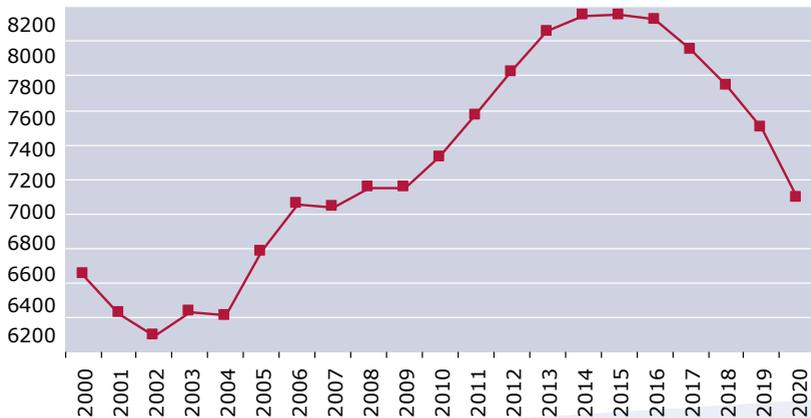


Number of lawyers and mediators

In 2020, as many as 6,529 lawyers and mediators provided legal aid in at least one case. This number shows a decline in the last couple of years.

In 2020 nearly 18.000 lawyers were registered with the Dutch Bar.

Figure 6 Number of lawyers and mediators in the legal aid system (2000 – 2020)



The number of mediators has increased compared to 2007, the year mediators started working in the legal aid system. In 2020, 865 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 average number of certificates per lawyer has risen by 25%, from 44 to 55 certificates per year in 2020.

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

5. Users of the legal aid system

Number of clients of the Legal Services Counters

In 2019 the LSC served approximately 420,000 clients. The website of the LSC was visited by 3.8 million persons in 2019.

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 a citizen of a larger municipality/(highly) urbanised area. Clients 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

In 2020 nearly 249,000 citizens received a certificate. Although this number has increased compared to 2000 (+13%), it has decreased compared to a couple of years ago. For example in 2016, over 300,000 applicants received a certificate.

Background characteristics of recipients of legal aid certificates

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 55 years of age; certificate holders of over 65 are rare. Employed and retired workers are found to be underrepresented, whereas recipients of social benefits and other nonworking persons are overrepresented.

Certificate holders are also found to be more often divorced and less often married and 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 in the past have shown that, in general, clients rate the services of the LSC as (very) good, with an average score of 7.8. Moreover, clients find and reach the LSC easily.

The services of the legal aid lawyers are also rated as (very) good, although it depends on the field of law. Holders of a legal aid certificate in criminal cases rate the services of their lawyers higher (with an average score of 8.3) than certificate holders in non-criminal cases (with an average score of 7.7). Only 15% of all certificate holders find it (very) difficult to find a suitable lawyer or mediator.⁸

⁸ Under certain conditions, applicants of 65 or over are allowed higher maximum assets.

6. Developments in the legal aid system

Compared to 2000, public expenditure on legal aid increased over the years. Therefore, in 2008, the government decided to cut the budget for legal aid by 50 million euros, both in 2008 as well as in 2010. Several measures were implemented, like stimulating alternative ways of dispute settlement. Mediation and the 'Roadmap to Justice' (Rechtwijzer) were steps in that direction.

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. Consultation and assistance by a lawyer during interrogation is free of charge in most cases, but as a result the contributions clients have to pay were increased, with even higher adjustments in divorce cases in which the spouses did not choose to divorce via mediation.

In 2011, the State Secretary for Security and Justice announced that the system of legal aid needed to be reviewed. A policy was developed that should result in structural annual savings of 85 million euros. Several measures took effect in 2015, such as the temporary reduction of the hourly legal aid rate paid to lawyers. However, most cutbacks were suspended because the Senate filed a number of motions in 2015. A commission was established to re-assess the legal aid system.

In November 2015 the Wolfsen Committee submitted a report to the Dutch Minister of Justice and Security entitled 'Reassessing Legal Aid Towards a Durable System for Legal Aid'. The Wolfsen Committee suggested to organise the system in a different way. The proposals focused on strengthening the first-tier legal aid, increasing the overall quality of legal aid, taking a more bundled and multidisciplinary approach to legal problems, and investigating a possible increase in lawyers' fees.

Subsequently the Committee Van der Meer investigated the adequacy of legal aid fees. In October 2017, the committee announced its findings following a detailed time registration study. The conclusion was that there is serious backlog in the system, as lawyers in almost all areas of justice and types of cases spend on average much more time than for what they are reimbursed. To bring up to date the current fixed fees, which are based on an approximately twenty-year-old time registration study by the committee Maan, the annual budget for the legal aid system should be increased by approximately € 125 million. However, the Minister for Legal Protection decided that the findings were not in line with the brief given to the Committee entailing that any recommendation should be budget neutral.

In the letter to the House of Representatives in November 2018, the Minister for Legal Protection described five outlines for a new system of legal aid. The outlines were mainly based on the results of a broad consultation process which took place in 2018, which – again – was based on the brief to design a new system without increasing the costs.

The five main outlines for a new legal aid system are:

- Accessible information and advice for everyone, regardless of income;
- Better triage in the first tier, including early assessments of appropriate solutions to a legal problem and the routes to get there and the eligibility for legal aid; the appropriate solution and route for the problem can also be a referral to social assistance;
- More control over costs and quality, through the introduction of legal aid packages that should lead to a predictable and evidence-based approach at an integral price and, possibly, to fewer legal proceedings before the courts;
- A new arrangement of clients' contribution, in which the contribution will amount to a percentage of the costs of the legal aid package;

- Realisation of a better compensation scheme for the lawyers. The assumption of the Minister for Legal Protection was that more problem-solving in the first tier would lead to less legal aid certificates and these savings would be used to increase the hourly fee for lawyers, hence (partly) meeting the recommendations of the Committee Van der Meer.⁹

In January 2019, the House of Representatives approved a phased implementation of the outlines, which will take place through incremental piloting and ultimately lead to the submission of new legislation to Parliament in 2023/24.

The desired innovations are currently being developed experimentally and iteratively and tested in numerous pilots and initiatives from the field that, financially supported by a subsidy of 10 million, can try out innovative forms of service.

At the same time, the minister commissioned the LAB, together with its legal aid partners, to develop 'justice journeys' and 'legal aid packages' for a number of frequently occurring legal problems. The most important pillar under these routes and packages, according to the LAB, is the person oriented perspective: it should all be about the citizen and his or her problem.

The concept "justice journey" refers to the total "journey through a dispute resolution process" that a citizen with a certain problem takes via the zero, first and second tiers. The concept of "legal aid package" is part of a journey, in case the resolution of a conflict requires specialised services from a lawyer, mediator or combination of service providers. The underlying idea behind both concepts is that commonly occurring conflicts, such as divorce and dismissal, lend themselves to a modular approach against fixed prices, with customisation for the citizen where necessary. This could include a legal aid package with fixed services such as advice, negotiation, mediation and litigation in court.¹⁰

⁹ In the meantime, research has shown that this assumption is incorrect. (Significant, 2020).

¹⁰ The Minister for Legal Protection describes in [his letter](#) of 11 January 2021 to Parliament in detail the justice journeys and legal aid packages (in Dutch only).

A justice journey and legal aid package can also contain add-ons for clients and conflicts in which individual particularities and complexities play a role (such as psychological support for parents and underage children in an acrimonious divorce). For an integrated solution, multiple legal and non-legal service providers can work together in a legal aid package if necessary. The legal aid packages also aim to improve quality by setting quality criteria in advance. This way, quality assurance of specialist services is better guaranteed and also priced. Moreover, it makes the services transparent for citizens looking for help; they know in advance what to expect in terms of service, quality of treatment and costs.

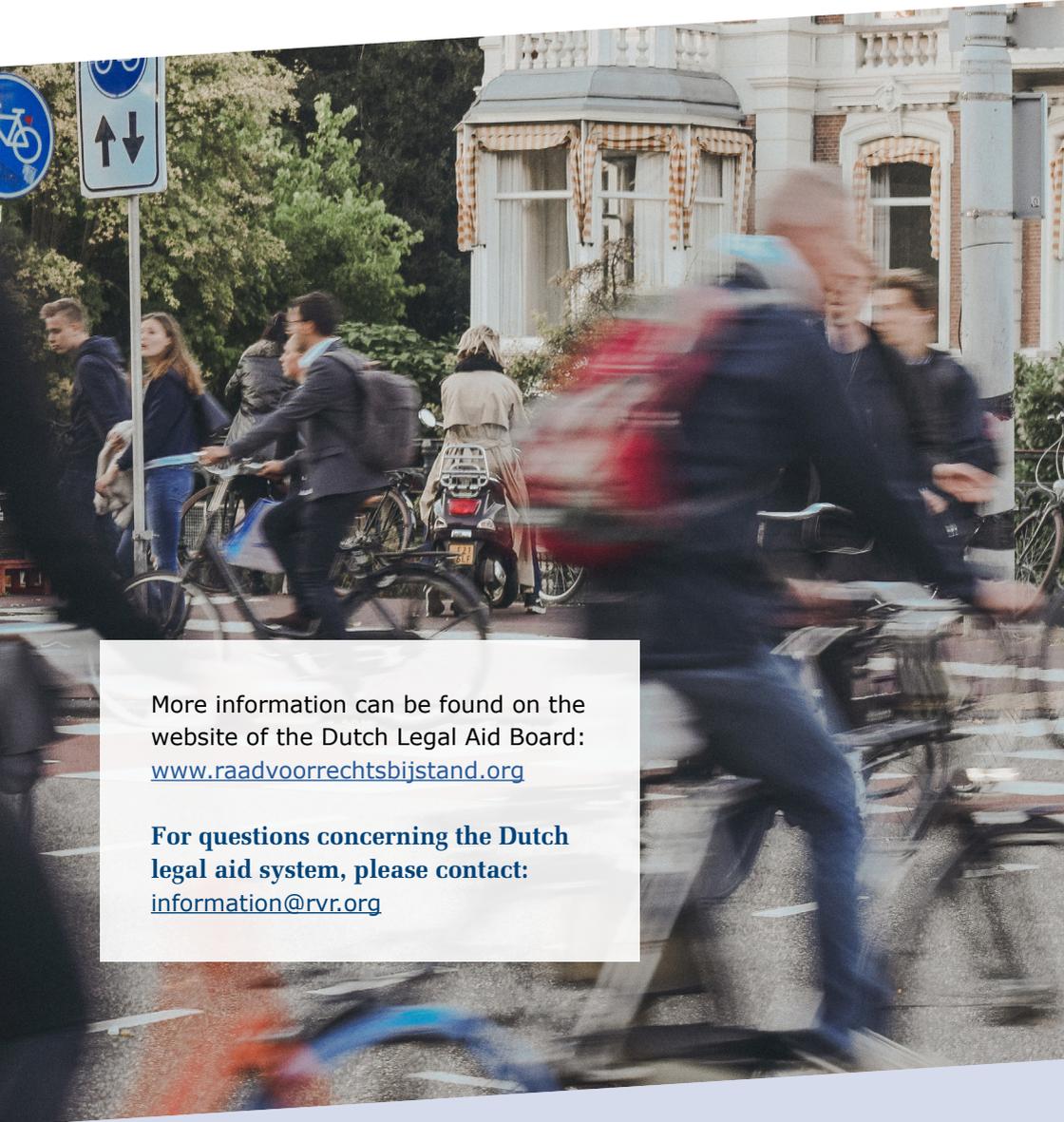
The first justice journey and legal aid packages to be developed are those for divorce. A team consisting of first-tier professionals, lawyers, mediators and any other experts (such as social workers and experience experts) has been set up to define, distinguish and describe the route(s) and package(s) in terms of content and procedure.

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The 'childcare benefits scandal' (in which tax authorities falsely accused thousands of families of fraud¹¹), among other things, led to new insights into the relationship between citizen and government. Themes like "person centered", the restoration of the "human dimension" and self-reliance have become important. It is therefore in line with expectations that the next cabinet will invest in these current developments.

Despite the recent fall of the cabinet and the elections in March, the plans did not come to a standstill. The movement towards a renewed system has started and the development of justice journeys and legal aid packages by the LAB and its partners will also continue in the period up to the next cabinet. This is done step-by-step and experimentally, and it is seen as positive and inspiring that this is widely supported by the Ministry of Justice and Security and the chain partners in the legal aid system.

¹¹ [The 'childcare benefits scandal'](#) was the reason why the cabinet resigned on 15th of January 2021.



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

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