

# Legal Aid in The Netherlands

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Dutch Legal Aid Board



# **How is state legal aid organized? Which new developments?**

# Main providers legal assistance

Lawyers - members Dutch Bar Association

Mediators - members Dutch Mediation Federation

Legal insurance companies, no special policy

Unions

Consumer organisations

# Figures on the turnover of legal assistance 2012

Members Bar Association	€ 4.0 billion
Legal Insurance Companies 3 million households	€ 0.7 billion
Subsidized Legal Aid 6 million people	€ 0.5 billion € 471 million in 2013
Low income people (LAB)	10 %

# System characteristics Dutch Legal Aid Act

- Citizens who can't afford costs of legal services are entitled to rely on the provisions of the Legal Aid Act: 36% of our population.
- Legal aid is independent of someone's nationality, as long as the case is ruled by Dutch law / court.
- The Parliament defines the rules for access, the type of services and cases, own contributions of users, lawyer-fees etc.
- The Ministry of Safety and Justice is the sole funder and policymaker for legal aid issues.
- Until now: open-ended budget.

# System characteristics 2

- The Dutch Legal Aid Board is responsible for arranging and supervising the Legal Aid System.
- The Dutch Legal Aid Board is set up as an independent administrative body, accountable to the Ministry.
- The legal aid model is a mixed model, with public providers (Legal Services Counters) and private lawyers and mediators.
- Aid is granted for all kind of legal cases (civil, criminal, administrative and asylum).
- For all kind of legal services: advice, assistance, litigation and mediation.

# How is legal aid provided?

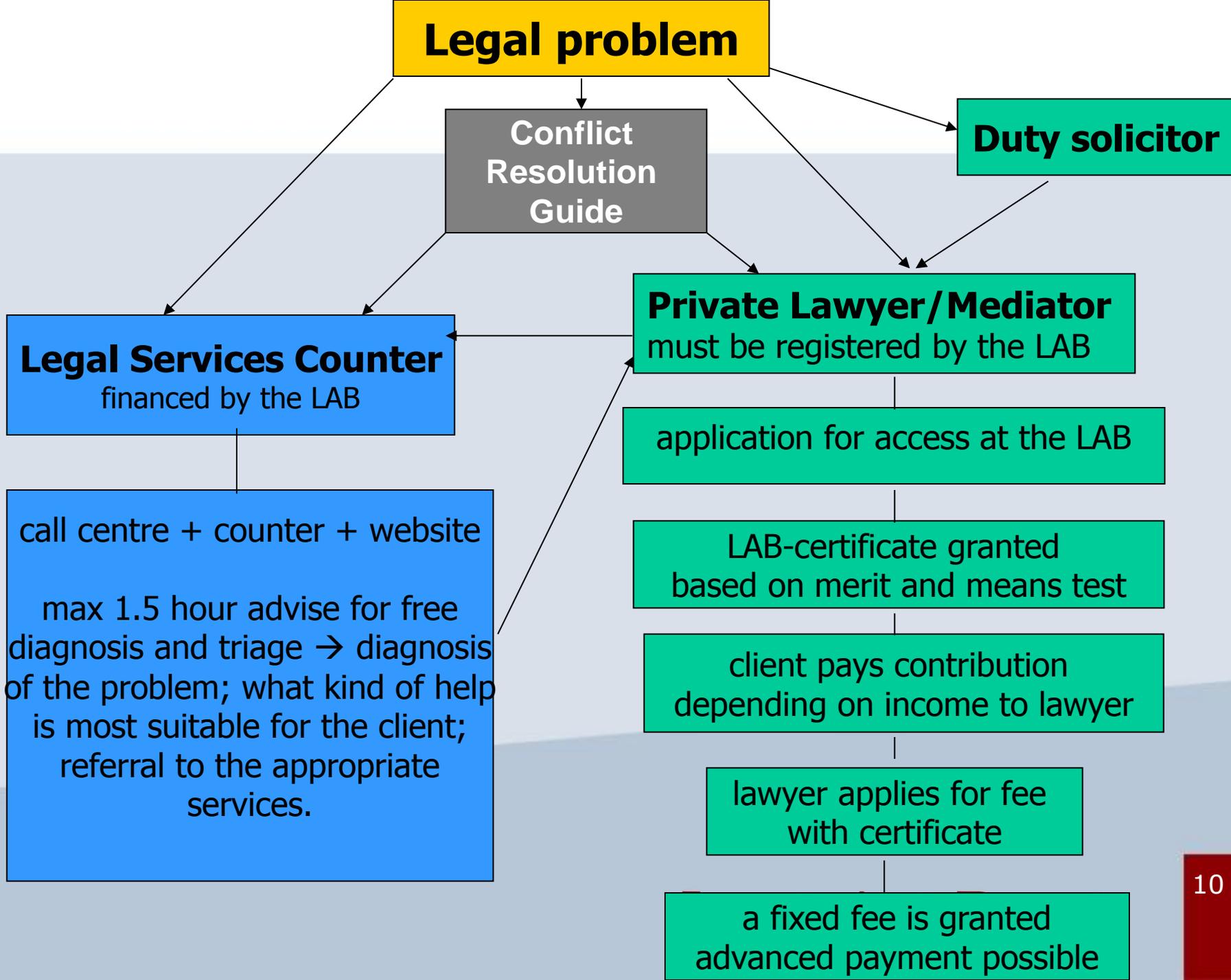
- Via zero line / Internet: google legal aid and you will find our Conflict Resolution Guide.
- Rechtwijzer is meant for problem diagnosis, orientation and information on different ways to solve a problem, standard examples for letters.
- Via first line: Legal Services Counters, public providers for first advice. Free of contribution.
- Via second line: private lawyers and mediators for extended consultation and litigation. Citizens pay an income- dependent contribution (euro 196 -849).
- In addition LAB arranges a duty solicitors scheme for custody cases: suspects, aliens, psychiatric patients
- In principle: free choice of lawyer or mediator.

# First line: Legal Service Counters

- 30 Legal Service Counters nationwide
  - exposure of LSC: meant for low income people.
  - easy accessible: e-mail, call center, counter > low threshold for access to justice.
- Task LSC is to clarify legal issues and to provide information and advice to citizens, 1.5 hour, and referral.
- Counters have an important screening function:
  - We encourage people to consult the LSC, no own contribution
  - Early intervention / advice in initial stage helps avoiding escalation
  - Good advice minimizes costs per case: informed about his position, a client can make a well-considered decision if and how he will proceed

# Secondary line: lawyers and mediators

- Secondary line is meant for advice in complex cases and litigation.
- LAB works with registered lawyers en mediators.
- In case of a low income client a registered lawyer or mediator can apply for subsidized legal aid at the LAB.
- LAB conducts a means, significance and merits test before granting legal aid to a client.
- Determination of a client's contribution is based on his annual fiscal income and capital.
- Means test is succeeded by electronic connection with the Dutch Tax Administration.
- Payment to the lawyers and mediators is based on fixed fees for different types of services.
- Exceptions (extra fee) only in very complicated cases.



# Demand for Legal Aid has grown

## Number of applications:

	<b>1994</b>	<b>2004</b>	<b>2009</b>	<b>2012</b>	<b>2013</b>
Civil	202,000	188,000	254,000	256,000	257,000
Criminal	73,000	137,000	156,000	158,000	155,000
Asylum	30,000	23,000	25,000	25,000	21,000
Mediation				8,501	9,990
Duty solicitor	65,000	89,000	89,000	128,000	118,500
Clientcontacts LSC				859,000	978,000
Referrals				105,000	133,000

## Increasing numbers!

Lawyers LAB	7,591
Offices	3,682
Mediators LAB	572

Legal Aid Board

# Expenditure on Legal Aid, Netherlands 3th

## Figures

	<b>1994</b>	<b>2006</b>	<b>2009</b>	<b>2011</b>	<b>2013</b>
Population	15,300,000	16,334,000	16,515,000	16,700,000	16,800,00
Eligible	49 %	42%	39%	36 %	36 %
	<b>1994</b>	<b>2006</b>	<b>2009</b>	<b>2011</b>	<b>2013</b>
Euro per capita	€ 12	€ 24.2	€ 28.1	€ 27.8	€ 28.0
Hourly rate	€ 57	€ 101	€ 111	€ 113	€ 107

# Is the Dutch system successful?

Yes, from a clients perspective:

- 36 % population is eligible.
- our system is serving the poor: + 80 % of the clients have minimum incomes.
- legal aid is provided mainly in cases that can't be handled via pro bono or insurance companies:  
family-law, criminal law, alien law, social security.

# Is the Dutch system successful?

Yes, but the other side is:

- Costs were increasing during the years.
- Most important measurements undertaken:
  - raise of own contributions
  - cutting-down fees.
- Not enough to control budget.
- More challenging is to reduce the dependency on legal aid and old conflict resolution methods. Preventing and modernizing is better than curing.

# Need for new alternatives to reduce costs of legal aid. Examples

- Need for laws and rules that are less complicated.  
Examples: new bills on alimony and administrative divorce. People will become less dependent on lawyers.
- Government bodies have to deal in a more pro-active way with the complaints of citizens:
  - invest in personal contact with citizens
  - use of the telephone in initial stage
  - use of mediation in complaint procedures.
- Criminal area: new approach to deal with common frequent crime:
  - “the as soon as possible method”.
  - new instruments are given to public prosecutors to impose light punitive measures. This means a non judicial way for early intervention.

# Need for new alternatives to reduce costs of legal aid:

- Legal proceedings must become easier:
  - Dutch courts started the development of digital court proceedings: administrative and cantonal courts.
  - judges will lay more emphasis on assisting parties to reach a problem-resolution by themselves.
- Need to empower citizens > i.e. trigger for further development of the Conflict Resolution Guide on internet.

# Hazel Genn and Paths to Justice as source of inspiration and guidance

- Value of early Intervention
- Need to provide different options to citizens
- Need to use our antennae to work out new policy

# So what do we need?

- Holistic approach: cooperation within the judicial chain. Scotland
- There is less budget, and in the meantime demand for better results in the judicial chain.
- Not only a cost saving strategy, but a system enabling higher value services.

# Need for further focus and emphasis on digital methods

- General strategy on e-government and more exchange between Justice partners
- Desire to provide citizens with opportunities for self help, of use for all people: people should and can have more self responsibility
- Focus on the digital way: gives also opportunities for transparency and cost effectiveness

# At present: Rechtwijzer 1.0

## Goals were:

- Empower citizens, give information and choice
- Design in cooperation with consumers and professionals.
- Examples in Rechtwijzer 1.0:
  - LAB realized internet-models for a divorce plan, parenthood-plan and an alimony-calculator: “the do it yourself divorce”.
  - LAB started development of a combination of off-line self-help in combination with online coaching / mediation.
- Good first results.
- Favorable reviews by critical experts.

# New Rechtwijzer 2.0. Goals:

- Provide broader digital access to justice for citizens, in different legal areas.
  - Further development of the separation platform.
  - Future: platforms for solving rental cases and cases against governmental bodies.
- New Rechtwijzer platform will be build on international trends:
  - self help, empowerment.
  - ADR, Online dispute resolution, Online adjudication platforms.
- New platform will provide a hybrid model:
  - self help + assistance by lawyers/mediators/adjudicators.
  - smart combination on line / off line.

# Rechtwijzer 2.0

- Format will be made available for connection with solicitors, mediators, adjudicators and first line service.
- RW does focus on self help with only support of solicitor when needed; cost effective. The right qualified lawyer or mediators in the right role at the right time.
- Ambition is to work with fixed costs for clients. More transparency in market. Not only available for people eligible for legal aid.

# Rechtwijzer 2.0

- Development in cooperation between:
  - Tilburg University
  - The Hague Institute for the Internationalisation of Law
  - Modria
  - Legal Aid Board
- We try to create a support base via:
  - approval of Ministry of Security and Justice.
  - composition of strong advisory board: Ministry, Bar Judiciary, Consumer organization, Legal insurance companies.
- Desire to create opportunities for international cooperation and sharing costs with other LAB's and MoJ's.

Diagnosis  
Free

- Reflection
- Receive advice
- Referral

- Rechtwijzer 2.0
- Online platform
- Separation

Intake  
±€45

- Insert data
- Nominate Issues
- Consider possible solutions

Dialogue

- Compare views
- Agree solutions

Review lawyer  
±€300 +  
€50

Mediation  
±€300

- Online facilitation

Adjudication  
±€200

- Remaining issues
- Judge or arbiter

Aftercare  
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- Feed back
- Adjustm ent

- Legal information
- Calculation tools alimony and pension
- Neutral legal advice
- Future: other services like financial planning

# Three times yes

- Dream..... yes
- Realistic..... yes
- Feasible..... yes