



NETHERLANDS

SNAPSHOT

**€168.1
MILLION**

ANNUAL EXPENDITURE
ON CRIMINAL LEGAL
AID (2012)

€9.3

PER CAPITA

€530

LEGAL COSTS
OF TYPICAL
CRIMINAL CASE

Recipients
of legal
aid must pay
a fee of
€76-€823.

OUTLINE OF THE LEGAL AID SYSTEM

HOW IS IT ORGANISED?

The *Raad voor Rechtsbijstand* (Legal Aid Board) oversees the provision of legal aid across the country. The Board assesses applications for legal aid and determines eligibility based on the applicant's income and assets, as well as the significance of the legal problem in question. In assessing the merits of the legal problem, the Board takes into consideration the costs associated with the case and if hiring a lawyer or going to trial is necessary. The Legal Aid Board also oversees the Legal Services Counters, which provide on-the-spot, free legal information, and referrals to lawyers and alternative dispute resolution.

HOW IS IT FINANCED?

In 2012, the state provided €486 million for legal aid. Criminal legal aid made up 36% of that expenditure, €168.1 million, also expressed as 0.08% of GDP or €9.3 per capita.

Legal aid lawyers are generally paid a fixed fee per case. It is calculated on an assessment of the average number of hours a type of case generally takes, and the basis of an hourly rate of €106. A general criminal case is fixed at 5 hours, meaning legal aid lawyers can expect to receive a fee of €530 per case. However, attending police stations and interrogations is paid at a lesser rate: €85 for consulting with an arrestee and €113 for attending interrogations, irrespective of the number or duration of interrogations. Legal aid lawyers are growing discontent at the reduction of fees and the possibility of further reductions, and in November of 2013, criminal legal aid lawyers went on strike to protest reduced rates.

The costs of legal aid are partly covered by a contribution from the client himself. This amount varies from €76-€823 depending on the type of matter and the person's means. One important exception is early access to a lawyer after arrest; if a person needs a legal aid lawyer when they are arrested and interrogated by the police, this is entirely free of charge.

HOW IS IT MONITORED?

The Legal Aid Board manages the administration and supervision of legal aid, in addition to the actual implementation of the system. The board may remove lawyers who do not adequately fulfil their duties from the list of eligible legal aid attorneys. The Bar Associations should ensure quality of their members and are responsible for disciplining lawyers.

MEANS AND MERITS TEST

Individuals who have been arrested may receive the immediate assistance of a lawyer free of charge, regardless of the arrestee's income. However, after the initial arrest period is over, people must then apply for the legal aid through the Legal Aid Board, which involves a means test to the individual, as well as a merits test of their case. The board reviews the nature and



LEGAL AID IN: NETHERLANDS

MAJOR ISSUES WITH LEGAL AID

Lawyers are growing discontent at the reduction of fees, particularly at the fees for police station assistance. In November of 2013, criminal legal aid lawyers went on strike to protest reduced rates.

The amount a person is required to pay as a contribution to their own case is high (€200-823) and being increased regularly.

Lawyers can be present during police interrogation but cannot intervene or ask questions until the end.

seriousness of the legal problem, the accessibility of alternative solutions, and the financial cost of the case. It also examines a person's income of the last two years and assets to determine financial need. In 2010, a single person would be eligible for legal aid if their annual income was below €24,900, and a family if their income was below €35,200. The applicant's assets cannot exceed €20,014 with an additional €2.762 per child.

THE REALITIES OF ACCESS TO LEGAL AID

ACCESS TO LEGAL AID DURING INVESTIGATIVE STAGE

Since the reform in 2010, suspects in police custody now have a right to meet with a lawyer for 30 minutes before they are interrogated. This is mandatory for persons suspected of serious crimes and juveniles. The lawyer can be present during the interrogation but cannot intervene or ask questions until the end, which appears to breach the EU Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings.

Arrestees can ask for a duty lawyer, and various types of police station duty lawyer schemes are operated by the Legal Aid Board across the country. Regardless of the scheme, under the latest regulations of the Legal Aid Board, a registered legal aid attorney must be on standby at all times to provide services in case of an arrest. If a person is arrested between the hours of 7am and 8pm, their legal aid lawyer must arrive at the police station to see them within two hours of their arrest. If they are arrested outside these hours, the legal aid lawyer must arrive at 9am at the latest. Legal aid lawyers are paid €85 for the first consultation, €85-170 for the second consultation, and €113 for attending interrogations, irrespective of the number or duration of interrogations.

The arrestee can access this lawyer free of charge until the first detention order. Thereafter, the financial capacity of the arrestee is assessed and the case continues through regular assignment to legal aid cases. For the majority of arrestees, this system ensures they can see a lawyer without any charge during the period immediately after arrest. The only exception is in cases of minor offences; if a person is arrested for a crime for which imprisonment is not a possible punishment, they are not eligible for this free service.

QUALITY OF LEGAL AID AND EFFECTIVE CRIMINAL DEFENCE

In order to provide legal aid, lawyers must be registered with the Legal Aid Board and comply with a set of quality standards. The Bar Associations are responsible for ensuring the standards of lawyers and can discipline their lawyers, and the Legal Aid Board supervises the provision of legal aid and can remove lawyers from the list of legal aid providers if they fail in their duties. Generally, the quality of legal aid services is considered high, but the reduction of fees for legal aid lawyers – especially for early assistance at police stations – means that some experienced lawyers may become less willing to do legal aid work.



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