

# ILAG 2001

P a p

e r s

**International Legal Aid Group**

**Peter van den Biggelaar**  
Special Relationships with  
Selected Law Firms:  
Experiences in the  
Netherlands

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## **SPECIAL RELATIONSHIPS WITH SELECTED LAW FIRMS: EXPERIENCES IN THE NETHERLANDS**

Peter van den Bigglaar

At short notice Dutch Legal Aid Boards will be starting important experiments changing the structure of legal aid supply. In addition to the dominant model of contracting individual lawyers providing legal aid, the Boards will contract private law firms on a long-term basis. These firms must provide a good infrastructure and must handle a fixed number of legal aid annually. At the same time the quality of their services must be guaranteed. In return the Boards will reduce the administrative burden caused by the actual granting procedures. The Boards will also create additional facilities to the firms in order to materialize the expected increase in quality. The list of preparations that preceded the initiation of the first experiments is long.

Before going into the contents and the desired effects of these experiments – arrangements as they are called - it seems useful to present a short overview of the actual Dutch Legal Aid system as well as some recent developments.

### **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 (1994). 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 individuals can apply for.

- 1) All kind of legal problems can be put before staff lawyers of the legal aid centres. During the so-called consultation hours, they can provide half-an-hour's 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.

175,000 citizens obtained advice and information in this way during the year 2000. Apart from the members of staff of the Legal Aid Centres. To a limited degree also private lawyers provide this type of service to a limited degree (at this moment 1,500 cases per year), but those who do they need a specific agreement with the Legal Aid Board in their region.

- 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 Centres' lawyers can also provide legal aid for a further three hours. The applicant is required to pay a financial fee of Nlg 30. (AUS \$ 23.) Access to these services is based on means testing in a very marginal way.

In the year 2000, 35,000 citizens used this type of service only to be provided by the Legal Aid Centres.

3) When solving a problem needs three hours at a minimum, applicants are entitled to legal aid based on what is called: a certificate. To this, the individual 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 legal aid 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 Ngl 125 (AUS \$ 96) to a maximum of Ngl 1.115 (AUS \$ 858). 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 required 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 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 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 average hourly tariff is Nlg 160 (AUS \$ 123).

|                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 300,000 certificates were issued to solicitors in 2000 (155,000 civil LAW, 95,000 criminal LAW and 50,000 in asylum cases). 7,500 certificates were issued to staff lawyers employed by the Legal Aid Centres. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

By far the most legal aid certificates are handled by private lawyers. Actually approximately 75% of the Dutch bar (11,000 lawyers) take part into the legal aid system, most of them on a very modest scale.

|                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Of the participating lawyers in the system,<br>35% do < 10 certificates per year<br>40% do > 10 and < 50 certificates per year<br>15% do > 50 and < 100 certificates per year<br>10% do > 100 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 Centres. Private lawyers' predominancy 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.

Although the legal aid centres provide all types of legal aid, they specialize in short-term legal aid services. 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.: labor law, social security, housing, immigration law and consumer law. Approximately 250 (fte) staff lawyers are employed by these legal aid centres. In addition approximately 100 (fte) staff

lawyers are employed by three asylum legal aid foundations that, of course, focuses on providing legal aid to asylum seekers.

## **RECENT DEVELOPMENTS**

So far I have described the Legal Aid System as its functions since 1994.<sup>1</sup> Now I turn to some recent developments into the system.

In recent years private lawyers' interest in legal aid has been on the decline. As a result there is the possible threat of a shortage in the supply of lawyers in the very near future. To an increasing degree those who are entitled to legal aid have to 'shop around' before they will find a lawyer whom is prepared to take their cases. Moreover, this situation leaves little room for the Boards as far as it goes to their policy on quality assurance.

Due to increasing prosperity as well as demographic trends in Dutch population both the extension and the composition of the target group is changing. Fewer citizens are entitled to legal aid and the proportion of foreigners as well as elderly people is growing. At the same time it is becomes clear that a category of vulnerable people is increasing who have to rely on legal aid more frequently. Most often these are the people with an economically and socially weak position, who remain structurally deprived of the advantages brought about by the booming economy and who are also unable to change gear according to trends in the field of, for example, ICT (Internet, mobile telephones, etc.).

Whereas most citizens cannot afford the high costs of commercial legal service delivery legal aid insurance companies are taking advantage of this. Their market share of legal service delivery is growing. However, their coverage is rather restricted (for example, not in divorce, asylum law and criminal law). Anyway, the group the Dutch legal aid is targeting, seems not a very interesting one to the insurance companies.

### **Turn the Balance**

The Legal Aid Boards, which are responsible for the quality and accessibility of the provisions, are trying to keep the balance between the supply and the demand. By evidence, this balance is an unstable one due to societal developments, shifts on the demand side and movements on the supply side. In anticipation to these developments, for example, The Legal Aid Boards (1) stimulate alternative types of legal aid (ADR/mediation), (2) create specific facilities for the victims of crimes (TERWEE) and (3) implement new legislation for people who have been confronted with unsolvable debts problems (bankruptcy) (Wsnp). In addition they continue their efforts in encouraging the legal aid involvement of the traditional bar. This is done by campaigning for higher tariffs of lawyers' remuneration as well as exploring the possibility of reducing the administrative burden of the legal aid granting procedures as is described earlier above in this paper and the facilitation of other services.

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<sup>1</sup> See also N.P. Levenkamp's contribution on the occasion of ILAC, Vancouver 1999. Evaluation of the Dutch Legal Aid Act.

## Research

In co-operation with the Ministry of Justice, the Legal Aid Boards have commissioned some research into developments in the supply of legal aid lawyers already mentioned. However, both studies carried out by the IVAM<sup>2</sup> and The Verwey-Jonker-Institute<sup>3</sup> indicate that the problem under study primarily seems to be a qualitative one (in stead of a primarily quantitative one regarding the numbers of lawyers not keeping pace with the demand)<sup>4</sup>.

As a previous study by Van Leeuwen, Klijn en Paulides (1996)<sup>5</sup> had already made it clear that there is no simple indicator characterising the size and the importance of private lawyers' legal aid practice. Even if the number of certificates a lawyer handles can be counted, these figures don't tell us much about the real importance of the legal aid practice within the lawyers' firm. And it is on the level of the firm that most important strategic decisions related to the participation into the legal aid system are being made.

## Practices

The Verwey-Jonker Institute study shows that law firms that participate in the system can be classified into one of the four types of practices (profiles):

- **Traditional commercial law practice**; such a firm only deal with a number of legal aid cases because of the fact that this type of service delivery follows from the professional code. practising law for the poor is part of the traditional lawyers' role. In effect, the legal aid work is done by the apprentices and the youngest lawyers within the firm.
- **Transitorial law practice**; these are firms runned by lawyers who started their career in legal aid law doing quite a substantial number of cases. Nowadays they handle much more commercial cases due to the low level of the legal aid remuneration. The legal aid part of the firms' caseload is spread all over the partners according to their specialisation.
- **Mixed law practice**; a mixed practice is pursued by solicitors on the basis of social and political conviction
- **Social law practice**; such a law firm continues to focus on legal aid. They benefit from regional market conditions. These practices want to grow in order to profit from the advantages of size.

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<sup>2</sup> Rechtsbijstand in Beeld, A portrait of legal aid, from Bron UvA & IVAM Environmental Research. This paints a picture of the characteristics of the supply of legal aid provisions, including the spread over the country, even on a regional level.

<sup>3</sup> Ontwikkelingen in het aanbod van gefinancierde rechtsbijstand, Developments in the supply of financed legal aid. This study is aimed at the participation of providers of legal aid in the system of financed legal aid, now and in the future. Questions were how is current participation doing (is it being reduced, if so, does it involve specialised or experience legal aid providers, what reasons can be given for the reduction?) and which developments could take place in the future. Within the framework of this study, quantitative analyses have been made on the supply side and interviews with persons providing legal have been held.

<sup>4</sup> See Vancouver Paper Albert Klijn: Dutch legal Services Quality Incentives: The Allegedly "Perverse" Effects of The 1994 Legal Aid Act, Law Review, volume 33 number 2 p.440, University of British Columbia.

<sup>5</sup> De Toegevoegde kwaliteit, Predictable influences of quality requirements for dutch legal aid lawyers; an ex ante evaluation study.

### **Reasons for limiting participation**

The Verwey-Jonker study suggests various reasons for law firms) to decrease their legal aid participation:

- The low level of the remuneration; the actual hourly tariff for legal aid is approximately 50% of the hourly tariff for commercial cases (Nlg 160 (AUS \$ 123 per hour compared to well over Nlg 300 (AUS \$ 230 per hour and more). At the same time that commercial demand is booming because of the increased tendency to initiate legal procedures. So, lawyers can pick and choose between selling attractive commercial services and less attractive subsidised services, whereby the choice for the latter is made increasingly less frequently.
- The relatively high administrative burden of granting procedures; requests needs to be accompanied by elaborate financial documents and other forms. The assessment rules require this full documentation.
- The perception of intensified bureaucracy; implementing by the boards of their statutory task is not always experienced as transparent and lawyers often find the board is unnecessarily laborious in their assessing applications and expense statements as well.
- The image of social advocacy; the image of legal aid lawyers seems to have more in common with that of social workers than with engaged legal professionals.
- The type of clientele; the legal aid clientele is, of course, most often less well educated compared to the commercial clientele. The latter do understand much more of lawyers' work and by consequence are more attractive to work for.

### **Policy incentives**

Based on the Verwey-Jonker study we know somewhat more about the strategies of law firms. Such an insight is helpful to the boards in formulating their policy. In this respect the boards formulated two goals:

To ensure the participation to the legal aid system by lawyers who comply with some quality standards and who are prepared to participate in a rather substantial way;

To start experiments in the field of quality care and the reduction of bureaucratic red tape.

### **THE EXPERIMENT: CONTRACTING LAW FIRMS**

The Boards' starting point with regards to this experiment has in view that the legal aid system needs better guarantees with respect to the quantity and quality of the supply. However, given the limitations that follow from legislation (e.g. the level of remuneration that cannot be changed by the Boards), the Boards have only very limited means to create conditions that are attractive to law firms in engaging into experimental contracts. But in the end we believe to have been able to create such a 'win-win'-frame.

#### Guaranteed acquisition

The law firm contracted agrees to deal with a minimum number of certificates related to the specialism of the firms' lawyers. This means that in the past the firm had already a substantial amount of legal aid cases in those fields.

### Managing demand

The legal aid Boards ensure their assistance in order the lawyers in effect do get this number of certificates. For example, by making agreements with referral organisations and by granting permission to use a special quality certificate.

### Quality

The firm must prove that it complies with quality standards. This will involve: the use of professional protocols, participating into client-satisfaction study and peer review. Complying with these criteria will permit participation in the arrangement, but also use of a special quality hallmark.

### Support

The boards will support the administrative and organisational processes of participating solicitors and provide extra facilities in the field of organisation, promoting expertise and administrative aspects. For example, they will offer expertise for improving the set-up of the necessary organisation, provide the means for attending training sessions, offer help in completing application forms of legal aid, and support in developing and implementing ict applications.

It is also important that the application procedures are simplified for these firms. The legal context of the case will require a less elaborate description from the lawyer. The Board will monitor at random and with retrospect whether or not cases comply with the statutory criteria.

### **The benefits**

To be perfectly clear, these contracts will not have the effect law firms receiving a higher reimbursement for their legal aid work. There are other advantages to be obtained:

- They can carry out relatively large numbers of cases in certain legal fields, which will benefit their expertise and efficiency;
- They need only make a relatively limited effort (marketing) to acquire these cases;
- They can assume a minimum guaranteed turnover upon which they can determine the set up of their organisation and investments;
- The guaranteed flow makes it possible for young lawyers to obtain experience in certain fields of law;
- They have fewer (administrative) activities to perform, while the remuneration per case is the same;
- They will be given facilities and support for which they do not incur costs or the costs are lower;
- Their quality will increase in general, which will also benefit the other commercial activities. The recognised quality certificate will form an attractive marketing instrument.

The advantages for the Boards and citizens are evident:

- There is a guaranteed supply of specialised providers of legal aid;
- They offer, moreover, a demonstrably higher level of quality;
- The risk of inexperienced student lawyers providing lower quality legal aid will be reduced;

- The investments are relatively low in comparison with a structural increase in the tariffs. Moreover, the investments will benefit the whole system (knowledge, ICT applications, protocols, etc.) and not only in favour of the lawyer;
- The involvement of the firms will be encouraged, so that in the long run sufficient supply can be guaranteed;
- In the long run arrangements can help improve the image of the sector.

## **Policy rules laid down for arrangements**

### *The firm*

Firms that want to enter into a contract with the Board will have to be well equipped. Initially, a certificate turnover of 450 certificates per year is expected. This point has been reviewed at the request of the president of the Bar<sup>6</sup>. It could well be that the participation of firms with a smaller certificate turnover is what is important for improving the image of the system.

There must be so many lawyers associated with the firm that it can be said to be a mixed firm, which is what is important for subsidised legal aid (specialised legal aid); thus, not just asylum and criminal cases. The minimum firm size is for the moment four solicitors and the composition needs to be balanced (not just juniors' solicitors).

Apart from the willingness to participate in monitoring of quality and satisfaction of clients, there must also be willingness within the firm to bind themselves to the system for a lengthy period of time. Extensive automation, including an Internet connection and its use is a good recommendation, as also is some experience with some form of internal quality testing.

### *The person seeking justice*

The person seeking justice is the immediate interested party within the system of subsidised legal aid. He requests a subsidy in the costs of legal aid, and, taking the conditions in the General Administrative Law Act into account, the Board will have to decide about his request by means of an order. This order contains a statement as to whether someone is eligible for subsidised legal aid and, if so, how high the personal contribution is that the person making the request will have to pay. It is possible to object to this order. This phase will therefore not be part of a contract that the Board will enter into with the firm providing legal aid. It is possible to agree a procedure that ensures as little work as possible for the participating firm. The following method of working is then possible:

- A client reports to the participating firm, which can then assess whether this is a case (from the point of view of contents) in the sense of the Legal Aid Act;
- The firm determines whether the case falls under the legal fields for which the contract has been entered into (if not, then referral should take place);
- The person seeking justice completes a special request for subsidised legal aid with questions relating only to the financial situation. The usual step of going to the local authority for a 'Income and Capital Statement' is not necessary.
- The person seeking justice (or the firm on his behalf) sends the request to the Board. Separate registration will be created for this purpose;

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<sup>6</sup> In consultation with the president of the Bar, it has been decided to involve a number of barristers' firms with a more limited certificate turnover during the experimental phase; particularly in order to see whether participation of these firms in the system can be encouraged by entering into arrangements

- The Board assesses, on the basis of the data, whether the person seeking justice is claiming legal aid, and if so, what personal contribution he is obliged to pay.
- If the form is incomplete, the Board writes (and not the lawyer as is usual) to the person seeking justice, informing him which data or appendices are missing;
- Immediately after the decision has been taken, the Board informs the firm by e-mail whether the client is eligible for subsidised legal aid;
- The Board sends the person seeking justice an order stating whether his request has been granted and, if so, what personal contribution he has to pay;
- The client can submit an objection to the Board with regard to a rejection or the personal contribution charged;
- The lawyer receives a copy of the order in connection with a request for a reduction in court fees, etc.

Optional to only the odd contract - with a view to further research - an accept giro form will be sent together with this order, containing the sum of the personal contribution and an explanation that this sum needs to be paid to the Board within 30 days. The collection risk thus comes to rest with the Board instead of with the lawyer, as is the case in the normal working procedure. If the person seeking justice does not comply then the certificate will be terminated and the lawyer will withdraw from the case.

#### *The contract*

For the moment a fixed price for a number of cases will be assumed for entering into a contract, whereby the contract will state what relationship is expected between the various fields of law. The average fee will act as a guideline here. The 'profit' for the firm is made up of the time that can be won back due to the reduced administrative burden and of possible forms of support in the field of automation and training. Moreover, a firm is free to choose its most suitable partner to handle a case.

The Board suggests the following contents for the contract:

- The contract is based on the quotation from the firm and the number of cases in the previous year;
- The Board will provide a total payment on the basis of the relationship referred to in the quotation between the various fields of law. Ranges can be agreed;
- In joint consultation, the Board can provide an advance whereby a bank guarantee will be required depending on the size of the advance;
- The total payment includes possibly time-consuming cases: the firm is not permitted to ask for more when the case cannot be settled within the agreed time;
- If at the end of the contract period a discrepancy is apparent in the number of agreed cases of more than 5% (either more or less cases handled), then settlement will be on the basis of the actual number of cases;
- Automation facilities and training budgets can be incorporated into the contract.

#### *The conditions*

- The scope of the contract depends on the size of the firm: a large firm (with more than six solicitors) will be given a contract for all fields of law if so desired. During the experimental phase, the Board will almost exclusively enter into contracts with large firms in connection with the necessary continuity;

- The firm must be prepared to accept control retrospectively. The Board will then take a look at whether a case has been handled correctly by means of a file random check or by controlling the contents.
- At the same time the firm must pay attention to developing quality-promoting measures, including peer control;
- A procedure for internal complaint settlement must be available or made available;
- A client-satisfaction study will be carried out at the Board's costs;
- A registration system of referrals will be kept up to date.

The Legal Aid Board expects to be able to start the first arrangements shortly. Far-reaching agreement has been reached on procedures, quality guarantees, reimbursement and facilities with ten firms. Agreement with these law firms has been reached in the meantime on the model contract, which is enclosed as appendix.

# Appendix 1

## Letter of intent

The Regional Legal Aid Board Den Bosch takes charge of the implementation of the 1994 Legal Aid Act in the district of Den Bosch. In order to guarantee the continuation of the participation of private law firms to the legal aid system in comply with the quality standards as set by the Board, the Board has started to contract firms instead of individual lawyers as was the usual practice up to then. The Board is also trying to gain experience for specific policy developments in such fields as the quality of care of services and the reduction of administrative burden related to the implementation of the law.

The participating firm would like to see its participation to the Legal Aid system embodied in this contract.

### Parties

By means of this contract both parties aim at providing mutual certainty, quality and assurance, and achieving simplification of the administrative transactions.

The law firm X having his seat in Y, henceforth referred to as the firm.  
The Legal Aid Board Den Bosch, henceforth referred to as the Board.

### Agree as follows:

#### 1. General information

##### 1.1. Continuity of Legal Aid participation

The Board will ensure that the firm (see 2.1. of this contract) will be able to take on the agreed number of cases under operation of the Legal Aid Act.

Among other things, the Board will:

- \* Inform other referral agencies about the co-operation between the Board and the firm and draw attention to it by means of publicity
- \* For the uniformity and recognisability of the firm, headed stationary, etc., will bear the logo of the collaboration between the Board and participating firms.

##### 1.2. Quality

The firm agrees, at the least, to:

\*

Implementatio

n of internal and external audits according to suggestions from a specific quality audit group created for this purpose. Important requirements for the audits are respectively that they are implemented periodically within the firm and that suggestions for improvements in the legal services delivery will be

formulated.

The Board will not be informed about the results of an (individual) audit.

- \* Implementation of client-satisfaction studies according to the guidelines and set-up of the client-satisfaction studies as formulated in the committee set up for this purpose. Important requirements for the client-satisfaction studies are that they are carried out periodically within the firm and that suggestions for improvement are formulated. The Board will not be informed about the [contents of the] results of an (individual) client evaluation. However, the Board will be informed about the results related to the total practice of the firm.
- \* Complaint procedures should exist within the firm.
  - \* Individual lawyers of the firm can make more specific agreements on quality with the firm (e.g., gaining extra study points).

### 1.3.1 Administrative simplification

The Board will make an effort to reduce the number of administrative transactions (within the limits of the actual legislation) for the firm. Part of this will be in any case:

- \* At random monitoring retrospectively the contents of legal aid cases undertaken by the firm within the limits as stipulated by the Legal Aid Act.
- \* In a case the application forms of legal aid certificates are incomplete, the Board itself will ensure completeness by means of direct correspondence with the person seeking justice. Those who provide legal aid will make an effort to deliver the application forms as completely as possible in the first instance.
- \* ICT use within the firm will be stimulated.

## 2. Specific details

### 2.1 Continuity: contents, size and duration of the contract

Parties enter into these agreements for the period of X years.

During this time the Board will ensure that the firm is able to take on (X number) of cases under operation of the Legal Aid Act in the following legal fields (-specified per firm).

Reimbursement will take place according to the specific wishes of the law firm.

#### 2.1.1 Quality

|                                                                                                   |
|---------------------------------------------------------------------------------------------------|
| Apart from the agreements stated under 1.2 concerning guaranteeing quality, the firm will ensure: |
|---------------------------------------------------------------------------------------------------|

(Possible additional terms, specific for each firm, e.g., extra points).

### 2.2 Administrative simplification

Apart from the agreements stated under 1.3, the Board will ensure:

(Possible additional terms, specific for each firm, the collection of the clients' fees

3. Costs, implementation and evaluation

Given the experimental status of this agreement, the Board will provide a considerable contribution to the implementation costs (as related to the development of a model, the implementation of audits as well as the client satisfaction studies). Within the limits set by the law the Board will provide additional subsidy in order to stimulate the participation. The Board for the purpose of implementation will appoint a project leader. The firm commits itself to co-operating with the implementation, including the participation to the special committees set up for this purpose.

In order to stimulate ICT usage by the firms under contract, the Board will also make separate subsidy available (maximum sum ...). Important requirements for granting this ICT subsidy are that the design and administration of the software are guaranteed, that the implemented software has a large installed base and operates/functions within the firms' network.

The time schedule for the implementation of the various sections can vary. Before September 1, 2001 client satisfaction studies should have been introduced while the implementation of the audits should have been realised prior to November 1, as is the ICT design.

Each quarter the agreement will be evaluated by the firm, the Board and the project leader. Unforeseeable complications which will threaten to damage one of the parties disproportionately will be solved under proper consultation.

Thus drawn up and signed at ..... on  
.....

.....  
Law Firm

.....  
Legal Aid Board Den Bosch

**THE ACCESSIBILITY OF THE  
JUDICIAL SYSTEM IN THE NETHERLANDS**

**An research on behalf of the Legal Aid Boards**

**Report with comparative results of  
the five Legal Aid Boards**

**Conducted by  
INTOMART**

**Project No.: 65948/EC/hth  
Hilversum, June 1999**

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## CHAPTER 1

### 1. INTRODUCTION

Intomart conducted a research in the Autumn of 1998 on behalf of the Legal Aid Boards in Arnhem and 's Hertogenbosch. A similar research was conducted for the Legal Aid Boards in Amsterdam, 's Gravenhage and Leeuwarden in May/June of 1999.

This was a research into the knowledge, wishes and preferences of persons seeking legal aid with respect to the accessibility of the judicial system and into the satisfaction with the legal aid offered.

The present report contains the joint results of both researches, with a division of the results per Board where relevant

#### 1.1 Backgrounds and objective of the research

There is an on-going discussion within the Legal Aid Boards about the way in which a person seeking legal aid can gain access to the judicial system. There are scores of ways to reach the private person in a low-threshold way.

The Legal Aid Boards have allowed a research to be conducted amongst their own clients and potential clients in order to get an idea of the wishes and preferences of private persons regarding this accessibility.

The central objective of the research was, in summary, the collection of information concerning:

- the experiences of private persons who have had legal aid;
- the expectations and knowledge that people had beforehand;
- the expectations and knowledge held by the potential person seeking legal aid;
- the preferences people have for certain entry options;
- the satisfaction of clients with the offered legal aid.

#### 1.2 Method used in the research

The research was conducted by means of computer controlled telephone interviews (CATI), from the Intomart Call Centre.

Prior to the research, the Boards sent a letter of announcement to a random selection of their clients explaining the objective of the research.

The talks took place after the pollsters were instructed in the backgrounds and objective of the research. The talks took place on the basis of a largely closed list of questions (see appendix), which was drawn up together with the Legal Aid Boards.

The average net duration of a talk was 8 minutes.

### 1.3 The random test

The Boards supplied the random test addresses of clients. A random test selection was made on the basis of instructions from Intomart.

The house number of these clients was used to look up the telephone number of the closest house. A random sample was then compiled by Intomart of non-clients who in terms of socio-demographic backgrounds approached the random sample of clients as closely as possible.

The non-clients spoken to were those in the households aged between 18 and 70 - and at the moment of the interview - were the first with an approaching birthday and were present.

A total of 1510 talks were held, divided as follows into region and type of respondent:

| City             | Clients      | Potential clients | Total         |
|------------------|--------------|-------------------|---------------|
| Amsterdam        | n=151        | N=153             | n=304         |
| Arnhem           | n=151        | N=152             | n=303         |
| 's-Gravenhage    | n=151        | N=150             | n=301         |
| 's-Hertogenbosch | n=150        | N=152             | n=302         |
| Leeuwarden       | n=150        | N=150             | n=300         |
| <b>Total</b>     | <b>n=753</b> | <b>N=757</b>      | <b>n=1510</b> |

### 1.4 Response

The response proceeded as follows:

|                                                                                     |             |
|-------------------------------------------------------------------------------------|-------------|
| • refusals (no time, no interest, etc.)                                             | 1973        |
| • talk broken off                                                                   | 35          |
| • no answer                                                                         | 1126        |
| • double address                                                                    | 3           |
| • line cut off                                                                      | 672         |
| • no letter received                                                                | 9           |
| • sick/died                                                                         | 25          |
| • language problem                                                                  | 156         |
| • disabled                                                                          | 11          |
| • unreachable during the field work period                                          | 146         |
| • helped by Legal Aid Centre and not by a lawyer                                    | 24          |
| • person unknown at this address                                                    | 198         |
| • no private telephone available (refugee centre, lawyers' office, neighbours etc.) | 751         |
| • number of talks conducted                                                         | 1510        |
| <b>Total</b>                                                                        | <b>6639</b> |

The gross response was 23%. Assuming a corrected address list, the response is good, considering the nature of the target group.

## 1.5 Reporting

The report consists of various sections:

- A text report with the total results for the five Boards, with in addition to the Introduction a succinct comment on the results, survey tables, graphs and a summary with conclusions and recommendations. The appendix to the report contains the answers to the open-ended questions.
- The current text report with -where relevant- the results per Board, including comments, survey tables, graphs and a summary with conclusions and recommendations. The appendix of the report contains the answers to the open-ended questions.
- A table report with the total results.
- Table reports (5) with the results per Board.

The results have been divided in the tables on the basis of the following variables:

- number of lawyers consulted;
- age;
- gender;
- education;
- income;
- client/non-client.

The results of the research are only available to the principal and those authorised by him.

The research was conducted in accordance with the guidelines of the VMO, the Association of Market Research Bureaux in the Netherlands, and the ESOMAR, the European Association for Opinion and Market Research.

## CHAPTER 2

### 2. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

#### 2.1 Summary of conclusions

##### 2.1.1 *Experiences of legal aid*

Many respondents have on occasion consulted a lawyer, including non-clients. These were usually fairly recent contacts.

Two thirds of the respondents have had a business contact with one lawyer and in three of the four cases it always concerned the same case.

Almost a quarter of the persons seeking legal aid approached a lawyer directly in the first query about legal aid. The persons also mainly went to the Legal Aid Centre, friends/acquaintances/family or the Citizens' Advice Bureau.

About 4 of the 10 persons seeking legal aid approached the lawyer concerned because of his specific expertise with the problem.

After the first orientating attempt, the vast majority of those interviewed went directly to a lawyer. The others first approached an intermediate, such as the Legal Aid Centre, the Legal Aid Board or the Citizens' Advice Bureau.

A small minority of the persons seeking legal aid in retrospect did not find it easy to find a lawyer: they did not know where to go, it was complicated, they were not given good advice.

Asked for an assessment of the lawyers on several aspects, it appeared that in general average report marks between 7 and 8 were given.

Nevertheless, there also appeared to be criticism: the percentage of the persons seeking legal aid who are less satisfied or dissatisfied with the lawyers consulted varied between 5% and 26% of those interviewed. About a quarter of the respondents also state that they would not or were not certain of consulting the same lawyer.

##### 2.1.2 *Preferences and requirements with respect to public authorities*

If legal aid should be needed in the future (again), the preference would be:

- to go directly to (the open office hours of) a private lawyer;
- to go to the information desk of the Legal Aid Centre;
- to phone an 06 number for the names of lawyers;
- to consult a brochure with addresses of lawyers;
- to phone the lawyers' line.

It can be deduced from the research results that there is more than one preference with regard to the public authorities that can be consulted for legal aid and that often, when a lawyer has to be found quickly, as direct an approach as possible is preferred.

It is mainly required of the public authorities where a lawyer is sought that they refer you to a specialist, an expert. Importance is also attached to aspects such as confidentiality, good help and understanding for the problems of the person seeking legal aid.

## **2.2 Recommendations**

About a third of the non-clients in the random sample, in addition to the clients of the Legal Aid Boards, have on occasion consulted a lawyer in the recent past.

On these grounds, it can be concluded that in practice many private persons within the interviewed target group will also ask for subsidised Legal Aid in the future. Low-threshold entries will have to be provided to take advantage of this as efficiently and as easily as possible.

Many clients of the Legal Aid Boards who have sought legal aid in the past have directly consulted a lawyer. The Legal Aid Centre, the Citizens' Advice Bureau or friends /acquaintances/family have also mainly been consulted in the orientation phase. The research results show that many respondents express a preference for short lines in finding a lawyer. One problem with this is that it is often not clear to the uninitiated where a specifically qualified lawyer can be found. It is to be recommended to create some clarity in this for potential clients.

Although the lawyers who have been consulted are generally given good report marks for several service aspects, it still appears that about a quarter of those interviewed will not or probably not go back to the same lawyer. In this context, attention must certainly be paid to the most important requirement stipulated for the public authorities where a lawyer is sought, i.e. to be referred to a specialist, an expert.

In looking for legal aid, a preference is expressed for different sources/public authorities. The most frequently named are: directly with lawyers during open office hours, the information desk at the Legal Aid Centre, a free 06-number with names of lawyers, a brochure with addresses of lawyers. On the other hand, a series of other preferences are still expressed.

The answers given lead to the deduction that – if the attempt is directed at making the accessibility and the low-threshold nature as optimum as possible - the offer of legal aid must proceed via various entrances.

## CHAPTER 3

### 3. EXPERIENCES OF LEGAL AID

#### 3.1 Contact with lawyers (Table 1 to 4)

Many respondents (67%) have on occasion consulted a private lawyer. An appreciable percentage (37%) of the non-clients of the Legal Aid Boards has also on occasion consulted a lawyer. These are in general contacts that have taken place in the recent past:

- in 1999 35%
- in 1998 28%
- in 1997 14%
- in 1996 6%
- before 1996 16%

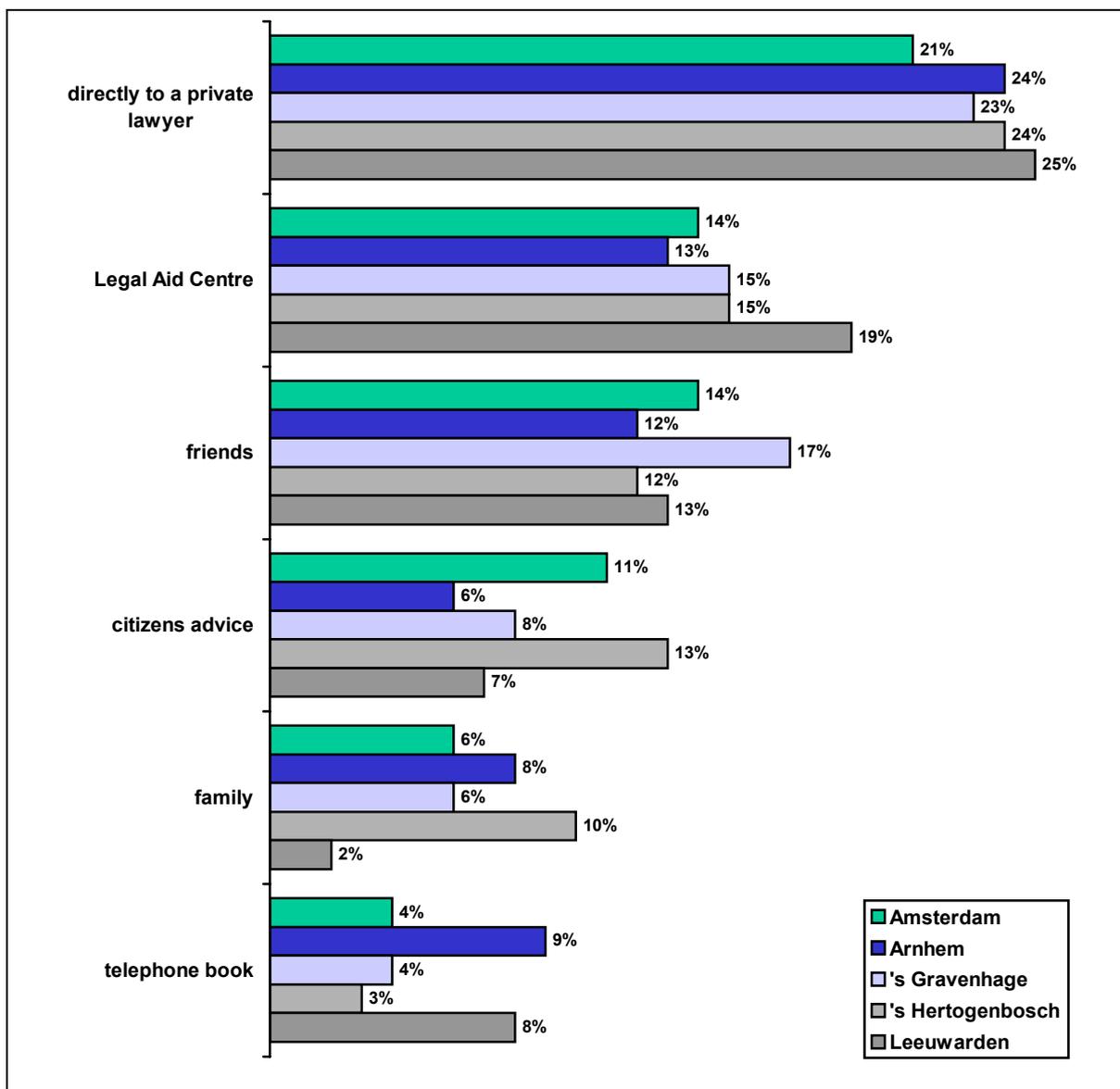
Two thirds of the respondents have had a business contact with only one lawyer.

In three-quarters of the cases, the contact with the lawyer involved the same case.

#### 3.2 Sources used (Table 5 to 16)

It can be seen on the following graph that almost one quarter of the persons seeking legal aid approached a lawyer directly during the first orientation for legal aid. People also mainly went to the Legal Aid Centre, friends/acquaintances/family or the Citizens' Advice Bureau.

Main sources in the first orientation for legal aid (n=1017)



An average of 39% of the respondents (particularly in Arnhem) approached the lawyer concerned because of his/her specialisation. The others did not do this for the following reasons:

|                          | Amsterdam | Arnhem | 's-Gravenhage | 's-Hertogenbosch | Leeuwarden |
|--------------------------|-----------|--------|---------------|------------------|------------|
| • knew that lawyer       | 48%       | 10%    | 48%           | 17%              | 12%        |
| • lack of knowledge      | 15%       | 15%    | 26%           | 8%               | 38%        |
| • simplicity of the case | 15%       | 15%    | 7%            | 31%              | 4%         |

After the first orienting attempt, the majority of the persons seeking legal aid (87%) went directly to a lawyer. The others first approached another public authority, such as a Legal Aid Centre, the Legal Aid Board or a Citizens' Advice Bureau.

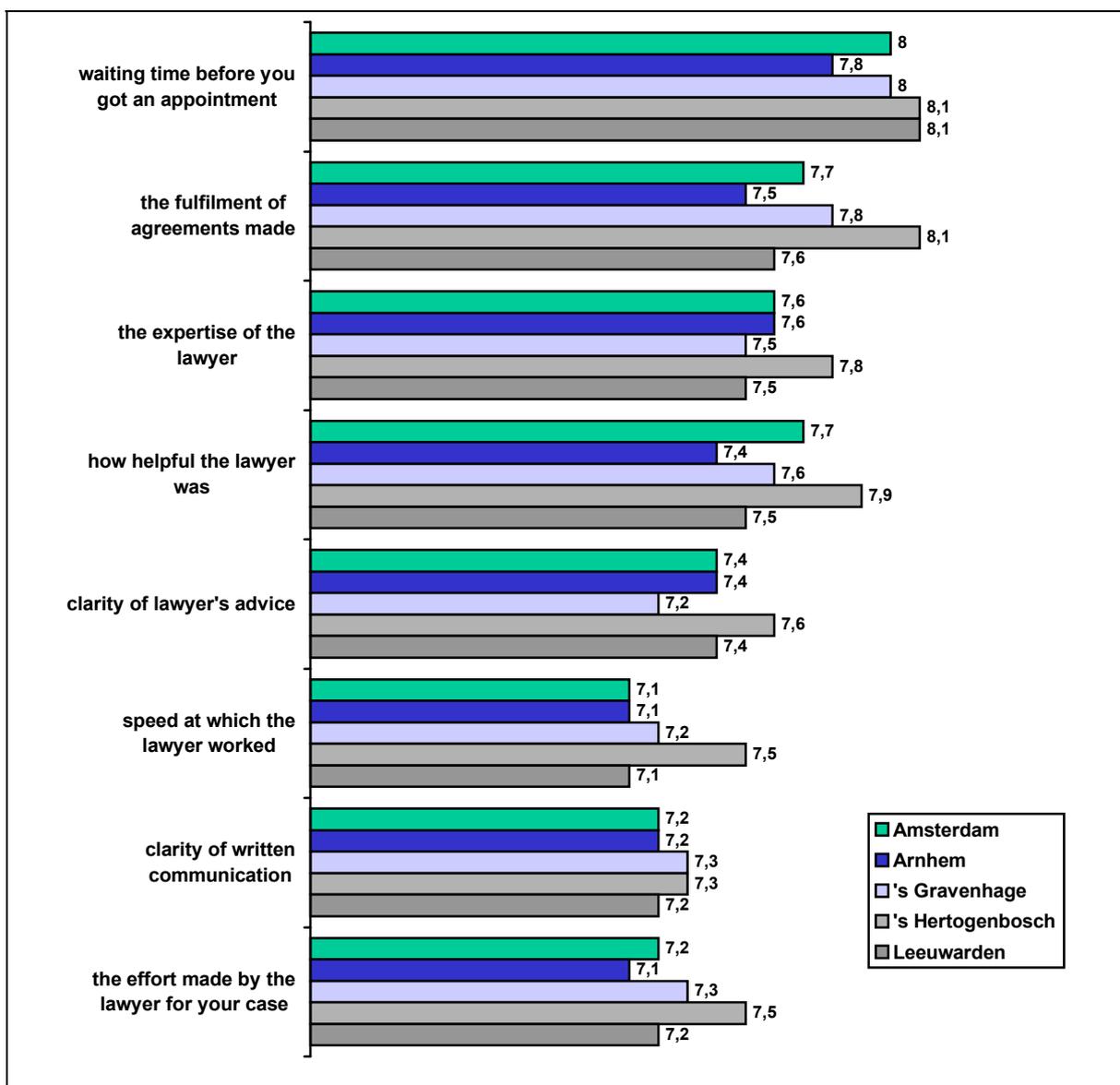
A small minority (7%) of the persons seeking legal aid in retrospect did not find it easy to find a lawyer; it was not certain where to go, there was lack of clarity/complication, good advice was not received.

Most persons seeking legal aid are however of the opinion that finding a lawyer was easy.

### 3.3 Assessment of private lawyers (Table 17 to 26)

The respondents who have on occasion had contact with a lawyer were asked (with the aid of a 10-point scale) to give an assessment of several service aspects with respect to that lawyer.

The following graph shows that the report figures assigned to these lawyers were on average between 7 and 8.



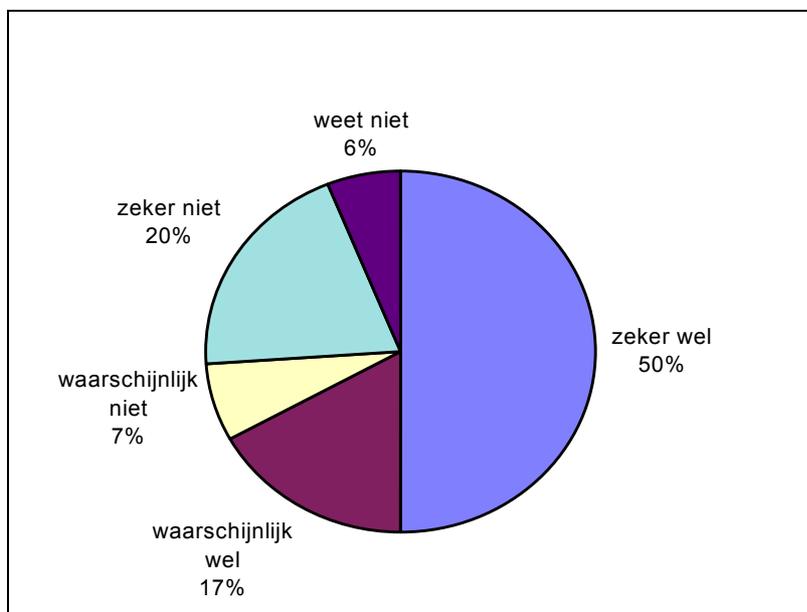
It is noteworthy that the assessment of persons seeking legal of their lawyers in 's Hertogenbosch is more favourable on six of the eight points than with clients of the other Boards.

Although the average report marks for the Boards were (easily) satisfactory, it still appeared that a not unsubstantial percentage of those interviewed were not or less satisfied with the consulted lawyer.

This is also illustrated by the following table, in which the average percentage of respondents of the five Boards are shown who assign an insufficient or just sufficient report figure, i.e. 5 or lower, or 6 or lower:

| Aspects                                                | 5 or lower | 6 or lower |
|--------------------------------------------------------|------------|------------|
| the waiting time for an appointment                    | 5%         | 10%        |
| the helpfulness of the lawyer                          | 11%        | 19%        |
| the clarity of the advice of the lawyer                | 13%        | 22%        |
| the speed at which the lawyer worked                   | 16%        | 26%        |
| the clarity of the written communication of the lawyer | 12%        | 24%        |
| the effort the lawyer makes for your case              | 17%        | 24%        |
| the expertise of the lawyer                            | 10%        | 16%        |
| the observance of agreements                           | 10%        | 15%        |

About one quarter of the respondents are therefore also of the opinion that they will not or probably not return to the same lawyer.



The clients of the Legal Aid Boards in Amsterdam, 's Gravenhage and Leeuwarden were asked during the research why they would not return to the same lawyers.

The main reasons given were:

|                                                              | Amsterdam | 's-Gravenhage | Leeuwarden |
|--------------------------------------------------------------|-----------|---------------|------------|
| • the lack of effort/interest                                | 17%       | 28%           | 10%        |
| • poor experience with that lawyer                           | 16%       | 18%           | 17%        |
| • lawyer was not an expert                                   | 17%       | 13%           | 16%        |
| • insufficient information/explanation<br>poor communication | 9%        | 15%           | 14%        |

### 3.4 Completion of the case (Table 27 + 28)

The respondents answered as follows to the question (only asked with the research in Amsterdam, The Hague, Leeuwarden) how their (legal) case ended:

|                               | Amsterdam | 's-Gravenhage | Leeuwarden |
|-------------------------------|-----------|---------------|------------|
| • case on-going               | 33%       | 26%           | 22%        |
| • won                         | 20%       | 24%           | 26%        |
| • lost                        | 11%       | 8%            | 8%         |
| • settlement made             | 28%       | 32%           | 29%        |
| • n.a., concerned advice only | 8%        | 10%           | 16%        |

About half of those interviewed said they were satisfied about the way the case ended:

|                               | Amsterdam | 's-Gravenhage | Leeuwarden |
|-------------------------------|-----------|---------------|------------|
| • satisfied                   | 46%       | 52%           | 57%        |
| • less satisfied              | 12%       | 9%            | 9%         |
| • dissatisfied                | 19%       | 19%           | 16%        |
| • n.a., concerned advice only | 5%        | 5%            | 5%         |
| • don't know /no opinion      | 18%       | 15%           | 13%        |

## CHAPTER 4

### 4. PREFERENCES AND REQUIREMENTS FOR PUBLIC AUTHORITIES

#### 4.1 Preferences regarding sources (Table 29 + 30)

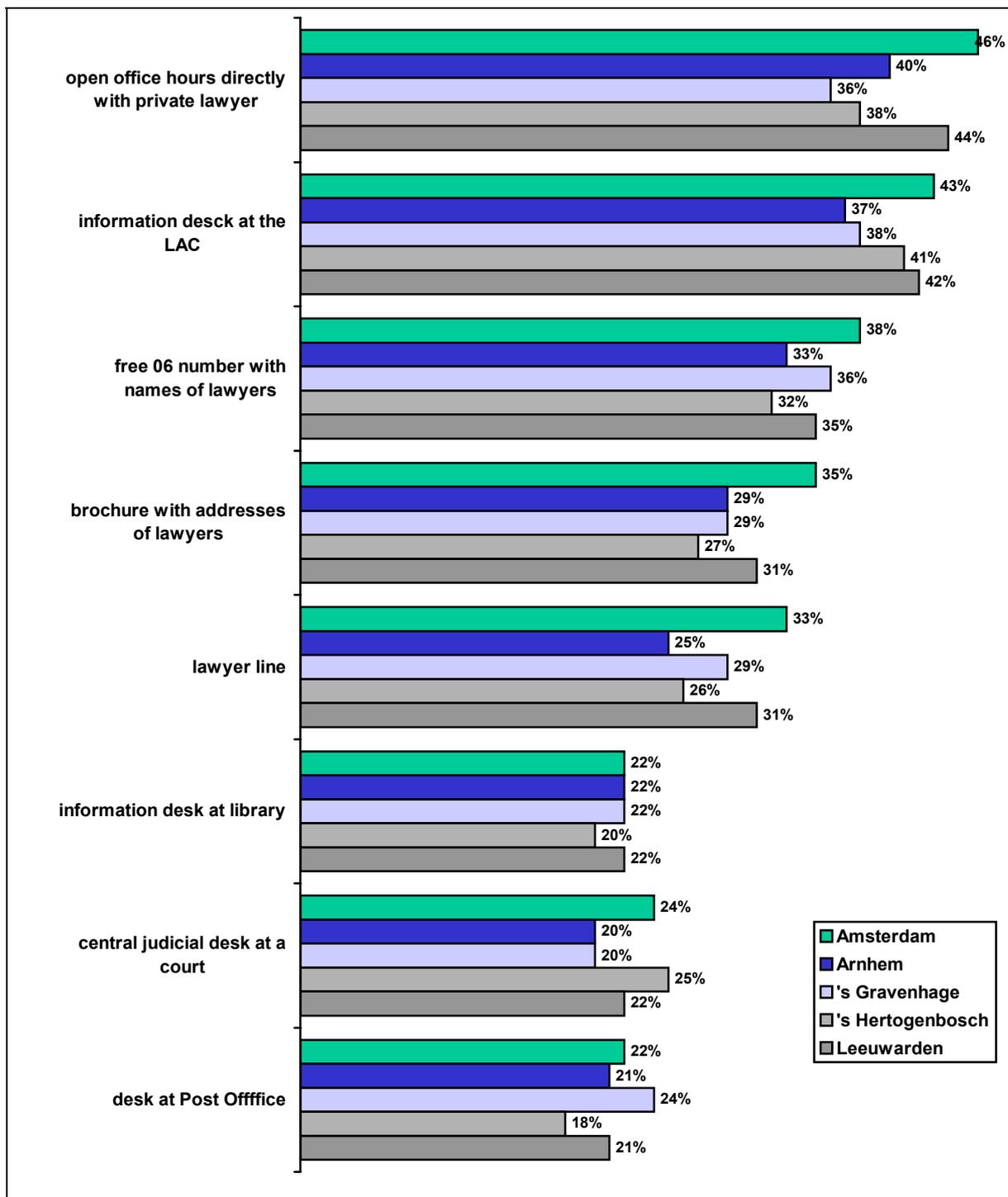
Clients and non-clients of the Legal Aid Boards were asked how they would set about looking for a lawyer if they should need legal aid (again) in the future.

The following preferences were expressed for sources /public authorities:

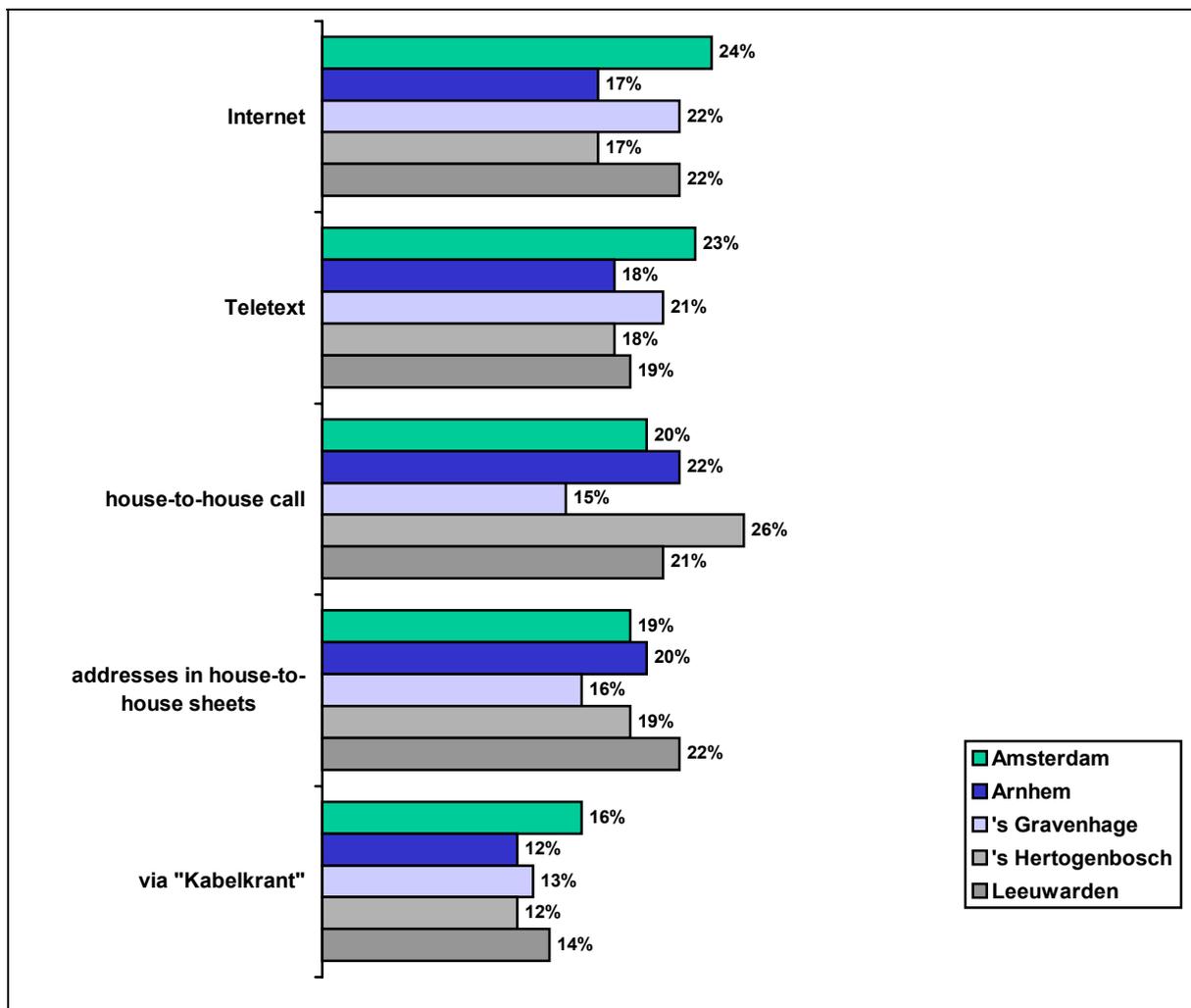
- information desk at Legal Aid Centre 14%
- Citizens' Advice Bureau 14%
- directly to lawyer 9%
- telephone book 8%
- friends/acquaintances/family 8%
- Yellow Pages 7%

The following preferences were expressed when asked by means of a helped questionnaire:

Preferred sources in finding a lawyer quickly  
(n=1510)



(continued) Preferred sources in finding a lawyer quickly  
(n=1510)



These percentages show that the offer of legal aid via different public authorities should proceed if it is wished to increase the accessibility as much as possible.

It also appeared that some respondents preferred as direct an approach as possible to lawyers.

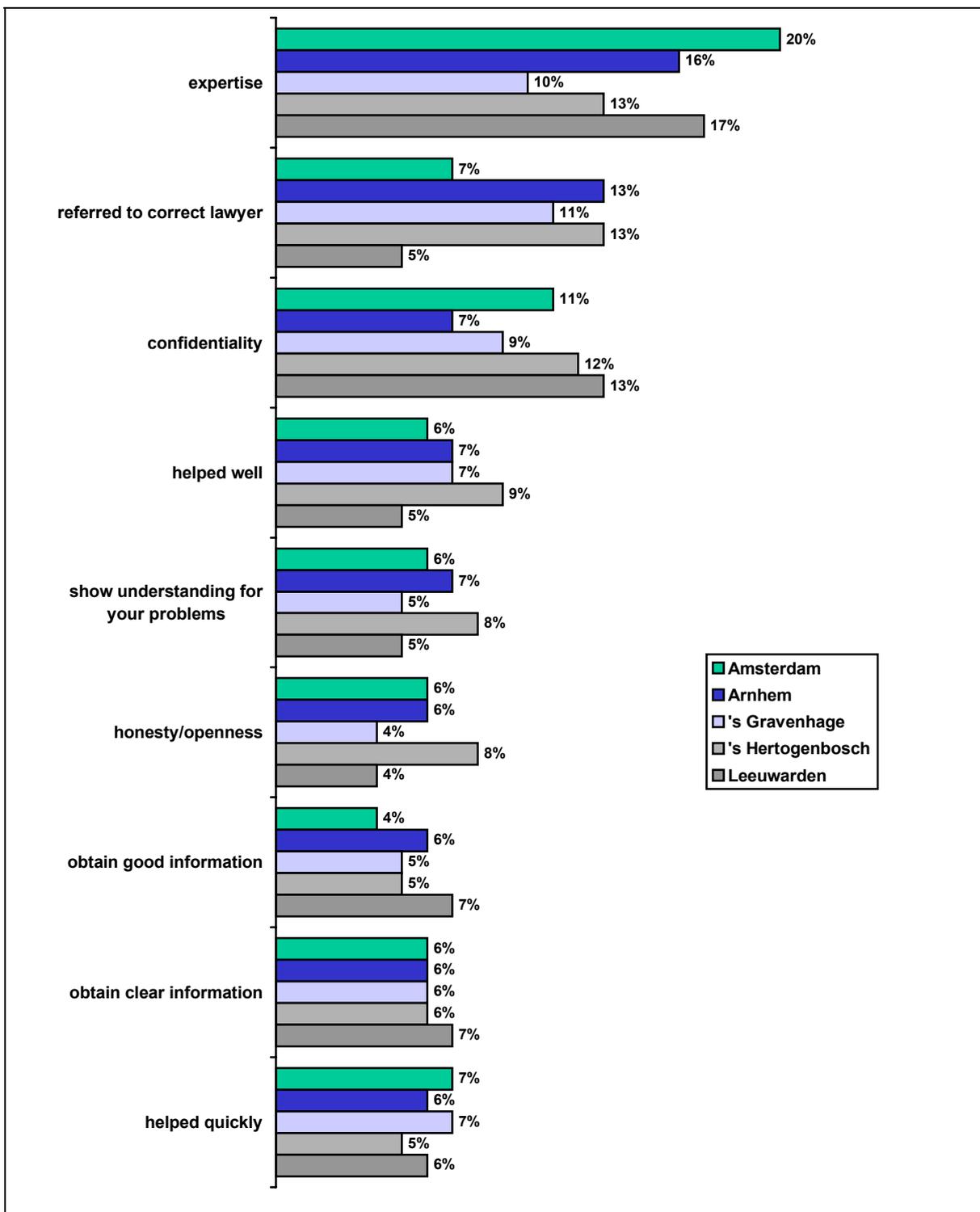
#### **4.2 Most important requirements for public authorities (Table 31 + 32)**

The following requirements were mainly set for the public authorities where a lawyer was sought:

- good help provided 18%
- referred to a specialist/expert 17%
- understanding for your problems 15%
- obtain clear information 15%
- expertise 14%
- obtain good information 14%
- confidentiality 13%

Even the helped questionnaire showed that expertise and correct reference to another lawyer were seen as the most important requirements by persons seeking legal aid. "Confidentiality" was also often mentioned as a crucial requirement.

Most important requirements for public authorities in looking for a lawyer (n=1510)



## CHAPTER 5

### 5. BACKGROUND DATA RESPONDANTS

#### 5.1 Age (Table 33)

The average age of the respondents is 41. 76% are younger than 51.

#### 5.2 Gender (Table 34)

The division of the respondents in terms of gender is as follows:

- male 48%
- female 52%

#### 5.3 Education (Table 35 + 36)

The majority of those interviewed were educated to a lower or intermediate level.

- LA + LB (lower secondary education) 28%
- MA + MB (intermediate secondary education) 40%
- HAVO + VWO (higher general + scientific secondary education) 8%
- HB + HW (higher professional - and scientific education/bachelor's level) 23%

#### 5.4 Work situation (Table 37)

About half the respondents (57%) are employed, or have a company or practice. 14% are housewives (or male equivalent), 11% receive assistance from social security WAO, AWW, which is more or less permanent and 6% are unfit for work or have taken early retirement, etc.

#### 5.5 Incomes (Table 38)

Almost half the respondents (49%) have a net income of f 2500 or less per month. Non-clients have a higher income than clients do.