

**INTERNATIONAL LEGAL AID GROUP CONFERENCE:
1 TO 3 APRIL 2009 – WELLINGTON, NEW ZEALAND**

NATIONAL REPORT: BELGIUM

1. BELGIUM'S LEGAL AID SYSTEM

Since the last reports on Belgium's legal aid system no real changes have occurred. The "commissions for legal aid" are still involved in the first line legal aid (advice and minor services) and the "bureaus for legal aid" are dealing with the second line legal aid which mostly consists of the appointment of an advocate to represent applicants before the court. The minister has increased the eligibility criteria. The legal budget has also been augmented.

In the report presented at the Killarney conference we referred to the lack of a general legal expenses insurance. In 2007 an agreement has been made between the Minister of Justice and the insurance companies to set up a general legal expenses insurance. For a yearly amount of 144 € a person is entitled to legal aid by a lawyer but the scope of the legal matters covered by this insurance is rather limited and only 67,000 persons have subscribed the insurance so far.

As already reported in previous papers, only a small percentage of the Belgian population is eligible to free legal aid. The majority has to pay its own expenses for the assistance of a lawyer or they pay by a legal aid expenses insurance.

Due to a new act, promulgated in 2007, the legal costs, to be paid by the losing party, have been incredibly changed. Depending on the value of the dispute, the legal costs will differ (see table 1).

Table 1

Value of the dispute	Basic amount	Minimum amount	Maximum Amount
tot 250 euro	150 €	75 €	300 €
van 250,01 tot 750 €	200 €	125 €	500 €
van 750,01 tot 2.500 €	400 €	200 €	1.000 €
van 2.500,01 tot 5.000 €	650 €	325 €	1.500 €
van 5000,01 tot 10.000 €	900 €	500 €	2.000 €
van 10.000,01 tot 20.000 €	1.100 €	625 €	2.500 €
van 20.000,01 tot 40.000 €	2.000 €	1.000 €	4.000 €
van 40.000,01 tot 60.000 €	2.500 €	1.000 €	5.000 €
van 60.000,01 tot 100.000 €	3.000 €	1.000 €	6.000 €
van 100.000,01 tot 250.000 €	5.000 €	1.000 €	10.000 €
van 250.000,01 tot 500.000 €	7.000 €	1.000 €	20.000 €
van 500.000,01 tot 1.000.000 €	10.000 €	1.000 €	20.000 €
boven 1.000.000 €	15.000 €	1.000 €	30.000 €

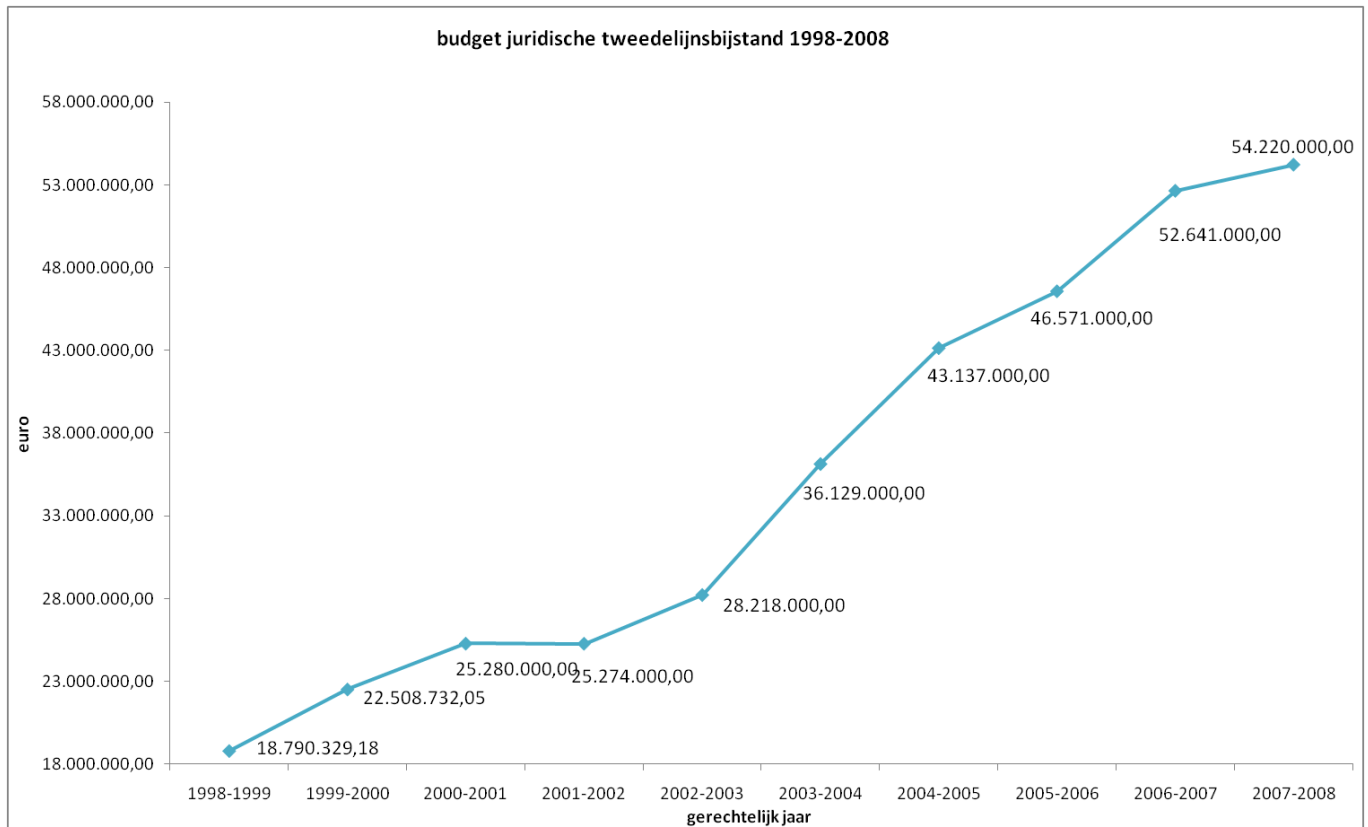
It is up to the judge to decide whether or not a person who is entitled to free legal aid can be charged the minimum fee or even a symbolic figure, less than the minimum. In all other situations the one who loses the case has to pay the basic fee and even more if the case is more complicated or the procedure seemed unnecessary, or if it can be regarded as an abuse of law.

This new act has been promulgated without any study on its effects to the access to justice and to the court. No general policy has been figured out to make a link between legal expenses insurance and the new act on legal costs. The major part of the Belgian population is facing major obstacles in its way to access to justice. Some scholars are convinced that this new act just improves the access to justice because people can recover their legal costs. But it is more than a statement that in most cases the result of a procedure is rather uncertain.

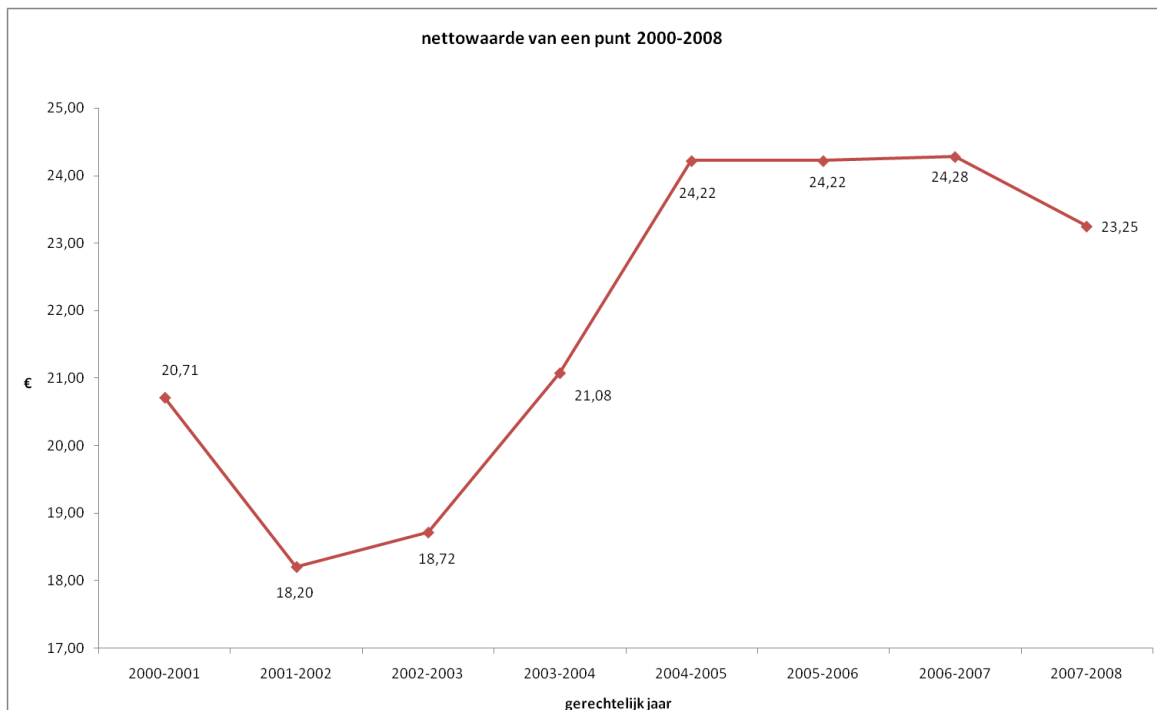
2. GENERAL DATA ON LEGAL AID

The Legal Aid Budget

As graph 1 shows the general budget on legal aid has been increased and this since 2002 until now.



The (closed) budget for 2006-2007 contained 52,641,000 €. One has to take into account that the original budget was 47,240,000 €. Due to the increasing amount of dealt cases, the value of a point given to the advocate as a reward would have been decreased to 21.84 instead of 24.11 the years before. The interim-government has voted an additional budget of 5,731,000 € to stabilise the value of the point, but for the period 2007-08, due to the crises the Minister is not willing to adjust the budget and the value of a point has been decreased (every case stands for a specific amount of point e.g. a rent case is 15 points, a criminal case 20 points etc.).



Dealt Cases

Since 1999 the amount of cases dealt and closed by the advocates has doubled from 60,806 in 1999 to 151,170 in 2007-08. This also explains why the accredited budget has been increased. As already mentioned before, an additional budget has been voted to equalise the value of a point for the period 2006-07, but cannot be taken for granted as we have seen for the period 2007-08. Every year the law societies will have to negotiate and to convince the government to increase the budget. If they do not succeed the value of a point risks to collapse, which happened in the years before and also in the last period of 2007-2008.

Total Amount Of Appointments

Since 2003 (the first time the law societies have gathered this data) the total amount of appointments has been increased. In 2007 86,882 new cases have been opened, 10,000 more than the year before.

Population

The most part of the applicants are entitled to fully legal aid, a small part to partial legal aid. They have to pay a small fee (maximum 125 € for every case).

More than 52.33 % of the applicants for legal aid are between 19 and 40 years old. ¼ are juveniles where the assistance of a lawyer is obligatory.

In 2005-06 57.64 % of the applicants were female and 67.50 % of the applicants were Belgian citizens, 4.32 were inhabitants of the European Union. 28.19 % were applicants from outside the European Union.

Most of the cases deal with family matters (14%), criminal cases (25%) and asylum seekers (17%).

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