

# **The Legal Services Counter: Lessons Learned**

**The Netherlands**

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## **INTRODUCTION**

A system of subsidised legal aid deserves permanent attention and maintenance; it shall never be an undisturbed possession. This may be inconvenient and sometimes opportune. This system of legal aid must always aim at serving the public better. That is why renewal is always required, by making use of modern techniques which makes it possible to be more effective with less money.

Such a system keeps you occupied and the work is never done; it is financed by public funds and must be guarded closely.

In the Netherlands, the system is permanently in a state of flux, and in this connection I would like to refer to Enclosure 1 where major milestones are listed. A striking feature is that attention has always been devoted to adaptations and going with the flow of social developments. In this sense, the development of the system is a never-ending story.

Government-funded legal aid has a history of 50 years, with high points and temporary low points. We see it as fluctuations, and it appears time and again that a high point foreshadows the start of relapse. Nothing has changed as far as this is concerned. Maintenance and debate require permanent attention.

For the purpose of the ILAG Conference, I would like to sketch the present state of affairs while emphasising the developments since the last conference, the lessons learned and the fruits reaped.

I will start with a short preamble, and consider the previous phase (until 2004) to be common knowledge. For completeness' sake, I refer to Enclosure 1. Then I will elucidate the reasons of the reform in 2004, and will describe them. Next, I will expound the start in 2004, and mention the first experiences and results, the adaptations, the present situation and the challenges for the future. When going through the various parts, I will give insight into the use of these provisions and the features of the users and support them with figures.

Since 1994, ILAG has proven to be a constant source of inspiration for developments in the Dutch system of legal aid.

We learn from research and experiences in other jurisdictions, and while taking into account other circumstances and conditions, we try to facilitate them in the Dutch system. Almost all experiences have proved to be useful.

We profited greatly by the studies done in the UK. It has proven that early intervention, avoidance of cascades of problems and not letting the public pass the problem on, but indicating the line in which the solution may be found played an important part in the latest reform of the system.

In Sweden and Germany we also learned about the vulnerability of the insurance system and we came to know of the experiences of a loan system. We also learned much about hidden costs in Germany. In Sweden we also saw the consequences of shrinkage.

Australia enriched us with the use of virtual experiences, which came in useful. The Canadians were very helpful with their ideas about legal clinics. The USA often made clear to us why underprivileged citizens are in need of support, and what can be reached by alternative or countercultural ways.

And from our southern neighbours, the Belgians, we, the Legal Aid Boards, learned that it pays off to combine forces.

Chile made it clear to us that demands can be made on lawyers, and England, Wales and Scotland showed us the possibilities and the strategy for peer review.

And we shared the experiences that Central Europe had with the organisation and setting-up of new organisations, and we learned again the importance of having a proper balance between civil law and criminal law.

All in all, not only the own mental and development power but also the help and inspiration of others contributed greatly to the improvement of the Dutch system. Without the latter we could not have reached all that we have reached now.

## A. WHAT HAS LED TO THE LATEST REFORMS

### *Background of the 2004 reform*

In 2001, the Parliament discussed the future of government-funded legal aid. Enclosure 2 explains how this legal aid system was organised at the time.

Below is a brief summary:

Four types of services	Providers of Legal Aid
<ul style="list-style-type: none"><li>• Consultation hour (max. 0.5 hour). Provided by Legal Aid and Advice Centres (LAAC). No contribution.</li><li>• Extended consultation (&gt;1 hour and &lt; 3 hours). Contribution: € 13.50. Marginal income test. Provided by LAAC.</li><li>• Legal aid based on a certificate. Assistance provided by private lawyers. Assessment of application by the Legal Aid Board. Income-related contribution (€ 89 - € 761).</li><li>• Duty lawyer scheme. Service provided by private lawyers</li></ul>	<ul style="list-style-type: none"><li>• Legal Aid and Advice Centres (LAAC)</li><li>• Legal Aid and Advice Centres for asylum seekers</li><li>• Private lawyers</li><li>• Mediators</li></ul>

The Legal Aid Boards assessed the applications for assigned counsel and granting subsidy for Legal Aid and Advice Centres. The Boards were responsible for the organisation and supervision of subsidized legal aid.

The reason for this discussion was a number of developments that were observed in subsidized legal aid. On the one hand, lawyers showed a decreasing interest in legal aid and on the other, litigants appealed less often to this facility. Moreover, the Legal Aid and Advice Centres as primary facilities were also developing more into a secondary facility and could be compared with a law firm. However, this distinction between public and private tasks of the LAAC's petered out, and access to the primary facility became limited.

Consequently, the former State Secretary for Justice formed a committee to deliver an opinion on the system. The committee was asked to analyse the pros and cons of repositioning the Legal Aid and Advice Centres, and the institution of a Legal Services Counter. Starting-points were the litigants' interests and the accessibility, continuity and affordability of the provision of legal aid.

This *Committee for Future Organisation of a System for Legal Aid* (hereinafter referred to as: the Committee) under the direction of Mr H.G. Ouwerkerk presented its advice to the State Secretary for Justice in February 2002.

## *Summary of the advice given by the Ouwerkerk Committee*

### **Separation of public and private tasks**

In summary, the Committee suggested a separation between the public tasks and the private tasks. Public tasks include the tasks that are focussed on clarification of the question, offering information and advice including a limited consulting time (one hour) and referral. With private tasks is meant the granting of legal aid in more complex cases (perhaps as follow-up of public tasks).

### **Abolition of the extended consultation time**

Furthermore, the Committee advised that the prolonged consultation time be abolished (see Enclosure 2 item 2)<sup>1</sup>. The activities carried out in the prolonged consultation time would have to be divided between the new Legal Services Counter and the legal profession (lawyers with private practice). The Legal Aid and Advice Centres as the Legal Services Counter would deal with simple advisory services that could be provided within the hour. The legal profession would deal with more complex cases requiring legal assistance (in advice). However, this requires that the legal profession is committed to the system.

### **Financial incentive**

The Committee also suggested that more and higher financial incentives be introduced. On the demand side, the result would be that litigants make a more conscious choice whether or not to carry on the lawsuit. On the response side, the incentive would have the result that legal counsel opts for the shortest possible procedure (deregulation).

### **State Secretary for Justice's decision**

Based on this advice, the State Secretary for Justice at the time submitted the basis decision on the organisation of the subsidized legal aid system to the Parliament on 10 April 2003.

In summary, the basic decision implied:

- Separation of public and private functions.
- There will be a Legal Services Counter for persons entitled to legal aid, with a nationwide uniform structure whereby the following (public) tasks will be carried out:
  - Clarifying the question,
  - Provision of information,
  - Referral, and
  - The provision of consultation time of one hour at the most to settle very simple cases and further clarify the question.
- The prolonged consultation time of the Legal Aid and Advice Centres will be abolished, but should not lead to diminished accessibility of the system.

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<sup>1)</sup> If a legal problem needed more than half-an-hour of a lawyer's time but was expected to be solved relatively quickly, the staff of the *Legal Advice and Assistance Centres* could also provide legal help for a further three hours. The applicant was required to pay a fee of € 13.5. Access to these services was based on a rudimentary means test.

- There will be a higher financial incentive on the demand side.
- The cases for prolonged consultation time and legal aid cases will go to the private sector.
- It is important to have the commitment by the legal profession, who must also be able to provide legal assistance to the less prosperous in all branches of law.
- Creating adequate commitment from the providers of legal aid at the Counter.
- The Committee's analysis that coordination and decisiveness in policy must be improved is generally shared. The Boards must play a vital role in the implementation of the proposals.

After the first rounds of talks with the Parliament, the State Secretary also asked for details about what the public could expect from the consultation time, and indicated that in future it must be feasible to settle simple cases during consultation time. The State Secretary also indicated that preference was given to introducing the Counter with accessory consultation time as a uniform structure in the whole country, but accommodations could be made with regional differences in demand and supply.

Based on these starting-points, the Legal Aid Boards called into being the project *Future organisation of a system of subsidized legal aid [Toekomstige inrichting stelsel gesubsidieerde rechtsbijstand]*.

### **Details**

The project organisation of the Legal Aid Boards and the representation of the organisations involved started with specifying the basis decision in more detail.

The elaboration was mainly focused on:

- Developing and encouraging the demand side;
- The public function of the Legal Services Counter as gateway to (funded) legal aid;
- The legal profession's commitment to the implementation of the private function of the system,
- The interaction between the Counter and the legal profession;
- The incentives for a more effective use of subsidized legal aid, and
- The financial consequences of reforming the system.

The Board subsequently opted for the organisational implementation of the two functionalities described in the Ouwerkerk Committee's advice: the public tasks would then be transferred to a Legal Services Counter which was to be formed, and the private tasks to the legal profession and the Legal Aid and Advice Centres that wished to remodel into a law firm.

This paper will go more thoroughly into the process of the formation and organisation of the Legal Services Counter, and the further continuation. The remodelling of the Legal Aid and Advice Centres into legal firms will be left aside. A large number of Centres opted for transforming into a regular law firm. The Legal Aid Board and the Netherlands Bar Association have lent a helping hand in this, and facilitated this operation (financially).

## B. THE SEQUEL

In specifying the details, the Legal Aid Boards first formulated their mission of the Legal Counter as follows:

### Mission

The Legal Services Counter wants to be a modern, public organisation where the public can get direct help with their legal questions free of charge. The Counter clarifies the question and gives information and advice promptly or during a consulting hour. If required, the Counter refers to relevant service organisations. One of the secondary tasks is to identify often-occurring flaws in laws and regulations or in the functioning of social security administration agencies and recurrent problems, such as those related to housing associations or utilities companies.

The Legal Services Counter aims at being widely known to people of limited means throughout the country as the easily accessible and open gateway to subsidized legal aid.

In order to fulfil these ambitions, knowledge and experience will be pooled nationwide and further developed. The quality of the Legal Counter's staff will be constantly improved by training but also by modern means, such as intervision and peer reviews.

Based on this mission, the following choices were made:

### Centralized or decentralized?

The Foundation for the Provision of Legal Services has one central organisation and is divided into five jurisdictional<sup>2</sup> work organisations. The infrastructure, the contents, the quality and the uniformity will be developed and maintained under national direction; the client will be advised at the Counter Organisation in the jurisdiction.

The central organisation will develop and ensure a nationwide and uniform (knowledge) infrastructure, will advance and monitor the quality of the service, give publicity to the Legal Services Counter and carry out management and service tasks.

In consultation with their 'own' Legal Aid Board, the jurisdictional organisations will carry out the public function in the jurisdiction of their Court of Appeal, ensure cooperation with regional chain partners and present proposals to the Board for arrangements and special agreements. Where possible, they will work in a combined accommodation with other public desk organisations, such as citizens' advisors or the CWI Centre for Work and Income. Also on account of the lessons learned by the independent Legal Aid and Advice Centres, it was considered to have one national organisation on the basis of the advantages and disadvantages listed below:

### Centrally organised counter:

Advantages	Disadvantages
1) recognizability, uniformity in projected identity, and execution of the work	1) fits less well in the 5 Boards structure
2) managing is easier	2) system depends on one organisation
3) chances for renovation	3) larger scale may result in a cumbersome institution.
4) benefits of scale: <ul style="list-style-type: none"><li>▪ more likely to set up one central telephone number and one virtual counter;</li><li>▪ it is simpler to pursue quality policy;</li><li>▪ less planning and control efforts;</li><li>▪ less overhead.</li></ul>	4) the former Legal Aid and Advice Centres are not able to make a choice (Counter or Law Firm)
	5) too little consideration for regional differences

<sup>2</sup> The Netherlands has five jurisdictions that form the territory of the Courts of Appeal (Appeal Courts). Each jurisdiction has several districts (working area of Courts of First Instance). Each of the five Boards for Legal Aid has one jurisdiction as working area.

### **Decentralized organised Counter:**

<b>Advantages</b>	<b>Disadvantages</b>
1) fits in with the 5 Boards structure	1) a consultation model is needed to reach uniformity; every foundation can influence the projection of their (own) identity and implementation of their work
2) does not cause any dependability of the one-organisation system	2) recognizability; when there are differences, the recognizability will fade
3) small and flexible organisation	3) more difficult to manage
4) commitment by present institutions, as they can opt for a Counter or a law firm. More chances for customized reform of present foundations.	4) difficult to have one (national) telephone number and one virtual counter, and may need the creation of a separate foundation
5) consideration for regional differences	5) quality assurance
	6) more planning and control efforts
	7) more overhead

Eventually it was decided to have one central number, but telephone calls would be distributed to the staff at the various counters. This was a well-considered choice and different from most call centres.

With the selected method of working, the telephone calls will as much as possible be rerouted to the regional Legal Services Counter with the option of rerouting them again to the nearby Counters when there are many calls. That is why the call centre's staff are spread over all Counters, and will also be called in for other services to be carried out in the physical Counter.

### **Designing the virtual Legal Services Counter**

The Legal Services Counter has three forms:

- the local physical Counters,
- one national hotline Counter, and
- one virtual Counter.

Throughout the country, 30 physical Counters will be established at well-recognizable locations, preferably in a shopping street or near a railway station, with opening hours adapted to the location. The physical Counter is mainly intended for clients that are less proficient in phrasing their questions by telephone or with the computer. The office must have an open image with possibilities for clients to consult written or electronic information sources. There should be a Counter for all citizens in the Netherlands within about one hour's travelling distance.

The Legal Services Counters and their staff must be organised in such a way that waiting times are short, and that the waiting time can be used to encourage the litigant's self-reliance in finding the desired information in the available (electronic) information carriers. Appointments can be made, but as little as possible.

A host or hostess will be in charge of receiving and advising the clients in an open space. Privacy is sufficiently guaranteed for consults with the staff.

There will be only one telephone and one virtual Counter in the Netherlands which will form an increasingly important gateway to the service. Legal information can be found via information sources at the virtual Counter to provide the clients with the right

information and enable them to find a solution to the problem as much as possible all by themselves (see also Chapter L). Moreover, there will be the possibility to contact the physical Counter or to be referred with an appointment to a registered provider of legal assistance in the region. The hotline and virtual Counters will be operated from 30 local physical Counters. The connection is automatically made by clients on the basis of their location or preference indicated by them.

### **The products of the Legal Services Counter**

The tasks of the Legal Services Counter are:

- clarification of the question,
- provision of information and advice,
- a consultation time of one hour at the most, and
- referral.

The manual with the products will explain to the public what can and what cannot be expected at the Counter. This manual is not static and will be adapted when there are developments on the demand side and any regional differences. As mentioned before, the central organisation of the Counter monitors the basic uniformity of the local counters and the degree to which any regional differences would transgress the uniform concept. There should not be any basic diversity in presentation and performance.

Extending the time of the consultation period (from half an hour at the Legal Aid and Advice Centre, to at the most one hour at the Legal Services Counter) will make it possible to settle very simple cases, or to have more clarification of the question.

Assignment of counsel will not be necessary for these cases. As soon as there is the requirement of legal service that cannot be handled by the Legal Services Counter, the case must be referred to a lawyer as soon as possible. For this purpose, referral protocols are drawn up by the Boards in collaboration with the Legal Services Counter, and referral arrangements in collaboration with the legal profession.

Though the public's emancipation and self-reliance have increased greatly in the last decade, there is an increase in clients that are in multi-problem situations, especially in the larger cities. Though a small part of the clients, this group requires a specific approach. Collaboration between the Legal Services Counter and the network of citizens' advisers should be such that optimum use can be made of their expertise in reaching the public with multi-problems.

The Legal Services Counter also has a signalling function. The Counter must signal and expose cases that often occur as a result of imperfections of laws and regulations or of how implementing bodies function. This is of course not a purpose in itself, but a secondary task of the Legal Counter.

### **Definition of the services provided by the Legal Services Counter**

The products manual mentioned above contains a description of the process and the contents of the provision of services by the Counter. It contains all cases that were settled by the Legal Aid and Advice Centre in the past within half an hour. By making a clear

distinction between the services provided by the Legal Services Counter and the legal aid provided by the legal profession and by monitoring cases that are settled in consultation time, there will be insight into how the Legal Services Counter is functioning.

The following preconditions are set for the services during consultation time:

- a) The rule of thumb is that the time set for the consultations is one hour at the most;
- b) Legal aid during consultation time is only given in the form of a short legal advice for solving simple cases;
- c) The contacts are non-recurring but of course it is not excluded that the client receives further information or that this information is transferred by telephone or via e-mail;
- d) No case files will be compiled, as this is the client's responsibility;
- e) A concise electronic file is made for a customized and qualitative referral to the legal profession and for registering data to give clear insight into the performance of the Counter;
- f) The Counter will not go public in writing on behalf of the client nor mediate in the sense of legal assistance in the procedure; however, the client is supported in drawing up a letter to be sent by the client; the Counter can also make contact by telephone with third parties on behalf of the client.

The Legal Services Counter provides services free of charge. For any referral to a law firm, the clients are explained what information they need to provide, what expenses could be involved, any risks of the procedure and the feasibility of the case, and all this must ensure that clients can make a well-considered decision on whether or not to make use of the further reaching legal assistance.

### **Minimal scale of the physical Counter**

The minimum size of the Legal Counter is so chosen that continuity, quality, accessibility and undependability of the Counter are guaranteed to ensure optimum provision of service to the public. An important role is also given to commercial aspects, such as aspects of efficiency, effectiveness, production output and the scale of the Legal Services Counter.

Based on parameters for production, scale and personnel output, it was concluded what the minimum average size of a physical Legal Services Counter had to be in order to function with sufficient commercial reliability. The starting point was that the Counter must undertake to settle cases as much as possible directly. The set up, whereby generalists are supported by more advanced ICT possibilities, standard solutions and knowledge systems, was to avoid pending cases and waiting lists. Fluctuations in the supply of work and regional differences must be counterbalanced by flexible deployment of staff and exchange between the Counters in the same region (in first instance) and further by organising an appointment system that accommodates fluctuations. In addition, questions can be rerouted easily via the call centre and virtual Counter, depending on the work supply in the country. This will result in Counters being less vulnerable on the one side, and on the other in staff providing services both at the physical, virtual and telephone Counters, which will also enhance the quality and deployability.

With the exception of the Counters in the four large cities, the size of every Counter is set at 6 FTEs.

### **Performance indicators for the Legal Services Counter**

To manage the desired effects, performance indicators for the Legal Services Counter were established which, besides the quality and the continuity of the provision of service, are decisive for achieving the aims of the Counter. The performance indications determine how high the standard must be. Efforts are made to achieve 100%, but 80% is seen as amply sufficient. When the score is out of the ordinary, one must think of situations whereby the technical infrastructure is out of use, or outside influences, e.g. when the client or the service provider cannot be reached. Via product registration, the Legal Services Counter must give insight to the Legal Aid Board into the degree of performance that is realised.

The aspects expressed in performance indicators are:

<b>Aspect</b>	<b>Performance indicator</b>	<b>Deviant score</b>
Physical access	Unrestricted during opening hours	Maximally 1%
Telephone access	Calling back within the hour	Maximally 5%
Virtual access	Unrestricted	Maximally 2%
Underutilization of public functions	Minimal underutilization at Counter	Maximally 10%
Urgent request for help	Settled within 24 hours	Maximally 2%
Request for information	Settled within 2 working days	Maximally 5%
Appointment with legal aid provider	Making appointment promptly and within 2 working days	Maximally 5%
Registration follow-up	Settled within 5 working days	Maximally 5%
Cancellation of appointment	Client does not show up	Maximally 7%
Familiarity with the Counter	70% for beneficiaries for Legal Aid After 12 months. Present familiarity 35%. Score client-satisfaction survey 7.5	Maximally 10%
Degree of client satisfaction	Score client-satisfaction survey 7.5	
Degree of legal providers' satisfaction	Score client-satisfaction survey 7.5	
Degree of intermediaries' satisfaction	Score client-satisfaction survey 7.5	
Degree of involvement of the legal profession/network in legal aid	Score client-satisfaction survey 7.5	
Degree of involvement in the system	Score client-satisfaction survey 7.5	
Insight into development of demand/supply	Score 7.5 for criteria to be defined later	
Realisation of the performance of these performance indicators also depends on agreements entered into with third parties.		

### **Undesired non-utilization**

Efforts must be made to avoid non-utilization of subsidized legal aid when the new system is introduced, which means that unfamiliarity with the system, too high costs or lack of legal aid providers induce persons with legal problems not to make use of the system.

Periodical surveys and registration (monitoring) must give insight in this.

Within this scope, the above-mentioned performance indicators are given for the purpose of the Counter. The registration system of the Counter is designed in such a way that these aspects can be read and interpreted transparently and unambiguously. Moreover, the Legal Services Counter and the Legal Aid Board provide the necessary information periodically to monitor adjustment of the supply side to the demand side.

### **Additional measures for enhancing the supply**

Plans are or will be developed as additional measures to stimulate the supply:

- The Legal Services Counter will be responsible for a prompt and qualitatively good referral to the legal profession via an electronic agenda.
- In cooperation with universities and colleges of professional education, the Legal Aid Boards and the Board of the Netherlands Bar Association will develop a plan to strengthen the supply of the legal aid lawyers.
- The Legal Aid Boards will take the first steps towards decreasing the administrative burden of implementing subsidized legal aid.
- A temporary incentive scheme must give support to the staff of the Legal Aid and Advice Centres to encourage the transition to legal aid lawyers.
- The Legal Aid Boards can monitor the balance in the system by constant monitoring of the demand and the supply sides at the Counters.

### **Regional cooperation**

The Boards attach great value to the way in which cooperation with chain partners is realised. The Boards are keen to ensure that the Legal Services Counter seeks adjustment with chain partners, such as the legal aid lawyers. Increasing and intensified cooperation can be optimally utilised by arranging on regional level about using each other's capacity, expertise and skills.

### **Guaranteeing certainty of operational management**

Operational management will be guaranteed by a minimum scale for a local branch (see above). This certainty will increase when staff from other locations can be deployed elsewhere in a certain area within an hour's travelling distance. Another possibility to minimize operational risks is to accommodate the Counter in a shared space with other organisations, for instance in a building with other businesses. Agreements can be drawn up for shared services, such as security, management of infrastructure, information desk, and etceteras. Municipalities have already developed shared accommodations for service organisations.

## C. THE START, THE PRACTICE

The Minister of Justice agreed with the proposal of the Boards, and agreement was reached on the starting points. Subsequently, the Legal Aid Boards started with the implementation process. To this end, they created a project organisation, which was the first to draw up an implementation plan with a detailed description of the planning of all (partial) processes.

### Phasing

The project team decided to introduce the phased implementation of the Legal Services Counters and the associated move whereby part of the lawyers of the Legal Aid and Advice Centres went to the Legal Services Counter and part to the private domain, but all this based on the lawyers' own preferences. Also important was the intention that the existing system was to be left undisturbed as much as possible. In other words: it was 'business as usual' during the renovation.

To gain insight into the implementation process and any possible effects on the existing and the new systems it was decided to organise promptly two Legal Services Counters as experimental gardens. Based on the first experiences with these Counters, further development could take shape in stages. In these stages, various studies were done into the organisation, the provision of service and client satisfaction, among other things. Provisions were also made that whenever a branch of the Legal Services Counter opened the public tasks of the Legal Aid and Advice Centre were closed. It had to be prevented that public services were offered in one area by both the Legal Services Counter and a still functioning Legal Aid and Advice Centre.

### Network

For setting up the Legal Services Counters, a new foundation was created. The 'Foundation for Legal Services Counters' is aimed at realising effective and efficient access to a qualitatively sound system of subsidized legal aid. Anticipating the creation of the foundation, the Netherlands was divided into five regions, and 30 locations were indicated.

The location of the network of 30 Legal Services Counters was defined on the basis of the following principles: a Legal Services Counter must be physically accessible for all citizens within one hour's travelling distance. Every capital of a court district (19) had to have a Counter. The other locations were decided on the basis of the number of citizens in the court districts and the desired spread based on the list of the so-called G30 municipalities (the 30 largest municipalities) and the 40 COROP areas. Each COROP area is a consolidation of municipalities, with a central core (town) and surrounding catchment area. The boundaries of the COROP areas follow the provincial borders.

### Design

To enhance the recognizability for the public, it was decided to equip all Legal Services Counters according to the same principle; corporate identity, furniture, consultation rooms, and all Counters in the same design. The spaces are open, and all locations have

an ‘information square’ where the public can try to find their own way with the help of information material, folders and access to the Internet. Staff can be contacted easily at the counter, at the helpdesk, or can give support in a closed consultation room; moreover, all members of staff have access to all facilities to provide the services from all working places.

### **Fields of law**

The litigant can contact the Legal Services Counter about issues in the field of employment law, law of persons and family law, social security law, rent and housing law, tax law, aliens law, consumers law and property, criminal law and administrative law. In addition to the above-mentioned products manual, a protocol manual was compiled to give staff the best possible support in carrying out their activities, and to create as much as possible a uniform service provision throughout the country.

The consultation hours that Legal Aid and Advice Centres have for detainees, the so-called penitentiary consultations, are also part of the legal service provision of the Counter. This will be realised as much as possible by telephone consultations but if necessary, the penitentiaries are also visited to let detainees speak with the Legal Services Counter staff in person.

To support victims of criminal offences, arrangements were made with the Foundation for Victim Support Netherlands so that they would be the first point of contact for these clients from then on. As knowledge was concentrated on this specific subject, this form of service could be enhanced.

### **Referral**

Referral arrangements were drawn up to support referrals to legal aid providers optimally. These arrangements contain further agreements about the provision of service, such as the fields of law in which the lawyers are working (specialisation) and the number of hours and/or times at which they are available. (Electronic) support of the referrals is provided for. In any case, the lawyers can indicate when they are on duty or free for appointments, which can be taken into account when referrals are made. Moreover, the litigant’s data is electronically supplied, so that the lawyer can form a clear picture of the nature of the case and the lawyer’s administrative handling is limited.

### **Legal Aid for Light Advice**

The Legal Aid and Advice Centres gave the opportunity to get more extensive legal aid for a small financial contribution (€ 13.50) to 3.5 hours at the most. At the request of the Boards, the Ministry of Justice deviated from the Ouwerkerk Committee’s advice and agreed on offering the legal profession the possibility to handle these cases as legal aid, starting at opening the first two counters, and called it the Legal Aid for Light Advice [LAT]. When speaking of Legal Aid for Light Advice, the lawyer can offer three (3) hours legal aid, for which the lawyer will receive a compensation for two hours on average. As yet, the client will pay € 13.50 on own contribution. The aim of this system is to retain this form of service (prolonged consultation time) and even to extend it to all lawyers. On the other hand, the aim was to add an extra incentive to the system; the

public can get the lawyer's assistance for a limited own contribution which is restricted to three hours.

### **Education and training**

When implementing the plans, it was taken into account that all staff of the Legal Aid and Advice Centres that wanted to transfer to the new counter organisation were offered an initial and customized training to promptly enable them to carry out the new public function in the new setting. The training was centred on coping with the new way of working and using support systems. On the other hand, additional knowledge was provided to enable them to function as a generalist. The education and training was designed in such a way that all staff could participate in all forms of support (counter assistant, consultation hours, telephone and virtual services).

Consultations were held with some specific training institutions to prepare a tailor-made programme for such training. Based on a listing made by the staff, a final plan was drawn up for the organisational period.

In view of the start of the new organisation where both staff of the former Legal Aid and Advice Centres were employed as new staff, and considering the fact that the transition to the new system had not always been generally applauded, much attention was also given to teambuilding in the initial phase.

### **ICT**

Further studies were made into ICT support for each counter in order to allow the Legal Services Counter to make optimum use of the available ICT possibilities for client recognition, knowledge management, handling profiles, protocols and appointment systems. Based on these studies, the following facilities were made available:

- A data and information registration system to store data and information about the litigants and the questions they had.
- A knowledge management system to help litigants and legal aid staff find answers to the (legal) questions.
- An agenda system to help Counter attendants make appointments for litigants with the Counter and, in case of referral, with other authorities.

In addition, certain forms of Counter will have a special application:

- An internet system to give shape to the virtual counter;
- A telephone information system to decide on the possibilities of the helpdesk.
- An Intranet system and a digital legal library to support the activities at the Counter.

And to conclude, the Legal Services Counter needed functionalities to manage their own organisation and to support the cooperation with chain partners:

- A counter with an adequate management information system to be able to monitor the developments and nature and extent of the service provision and the developments related to demand and supply
- Links to external systems to make exchange of data and information with chain partners possible.

### **Frictional staff**

To let ‘business as usual’ continue even during renovation, and to allow for possibilities to do the (re)training programmes and for accommodating any staff drop-out for whatever reasons (illness, wrong choice, disappointment in the transition period) it was decided to make supernumerary staff available during the first few years.

In May and June 2004, the first Legal Services Counters were officially inaugurated by the Minister of Justice himself and the Burgomaster of Rotterdam respectively.

## D. THE FIRST EXPERIENCES

Based on the first Legal Services Counters, it was ascertained whether there was the necessity to adjust the concept of system changes and the organisation of the Counters before starting the development of the other 28 Legal Services Counters.

### **Interim review**

After a two-month trial run with the first two Counters, the project organisation drew up an interim review. To do this, the Legal Services Counters in Breda and Rotterdam were visited and information was also obtained about the design, organisation and method of working. There were interviews with Counter attendants and lawyers, and questionnaires were sent to clients and lawyers. However, due to the relatively short period in which the Legal Services Counters were functioning, and the selected method of working (quick scan), the scope of the interim review was still rather limited. Nevertheless, the interim review gave a solid impression of the state of affairs shortly after the Legal Services Counters were set up. This viewpoint was endorsed by an external agency, which tested the realisation and the results of the interim review.

Though some parts needed to be improved, especially those of practical or technical nature, it was confirmed that the assumptions and principles were solid. It also appeared that the clients of the Legal Services Counter and the legal profession were in general (very) satisfied.

### **Transparency**

The first experiences with the referral arrangements showed that a much better insight was gained into the legal profession's willingness to contribute towards the system of subsidized legal assistance.

Especially for the Legal Services Counter it was decided to make referrals as clear and as transparent as possible. In concrete terms, this meant that all private lawyers admitted as members for participation in the system were asked for which specialisations (with a maximum of 5) they wanted to receive legal-aid cases. Based on these specializations, the Legal Services Counter referred clients to the legal profession while applying the following selection criteria: distance to the client's home (within a radius of x kilometre), availability, and the number of referrals already received. It soon became obvious that the legal profession had great confidence in this way of working (no old-boy network, and easily checked allocation criteria), and it became clear to the Board how happy the legal profession was to participate, and the image of the legal profession withdrawing from the system was soon to be reversed.

### **Client satisfaction surveys**

Where in the discussion about the system changes it was repeatedly raised that the public was not really looking forward to a Legal Counter system that was (apparently) more limited than the services given by Legal Aid and Advice Centre, the client satisfaction survey soon proved that clients were generally very satisfied about this service.

Right from the beginning, there was great satisfaction about the service, the expertise, the design and the location of the Legal Counter. The clients had a good picture of the

services rendered, and referral to other organisations was taken as expertise of the Counter assistants. Clients were also aware of the expenses involved. The larger part of the litigants would contact the Legal Services Counter again when facing another legal problem.

It was striking that clients were highly pleased with the fact that the possibility was given for a first exploration. This also presented the image that a great number of clients also wanted to keep their own direction and were not pleased with the Counter taking over the problem.

However, the interim review revealed that a number of litigants could not contact the Legal Services Counter by telephone since they were barred from using the 0900 numbers. The same applied to detainees, who, due to their detention, could not make use of these possibilities.

And there were some wishes in the field of privacy. The open design of the counters, and the reception counter in particular, was seen as too open and this was not appreciated by the clients.

### **The legal profession**

Contacts with the legal profession showed that the collaboration between lawyers and the Legal Counter was passing satisfactorily. Appointments for litigants could in general be made promptly, though there was the need for receiving more information about the client and the opposite parties. There was also a growing interests in concluding arrangements with the Legal Aid Boards. The only disappointment of the legal profession was that the number of referrals did not come up to the expectations most lawyers had. Where participation by the legal profession was growing, the wash became poorer.

## E. THE FIRST RESULTS

From the beginning, the data about the first Legal Services Counters have shown a light but steady growth in the number of visitors.

A survey of the data on the first five Counters is given below.

	Breda	Den Bosch	Eindhoven	Leiden	Rotterdam	Total
<b>December 2004</b>						
Counter	382	351	311	74	1347	2465
Email	41	8	5	4	25	83
Consultation	191	285	93	79	423	1071
Telephone	1125	921	585	448	1846	4925
Website	0	40	3	0	6	49
Total	1739	1605	997	605	3647	8593
<b>January 2005</b>						
Counter	314	372	315	136	1261	2398
Email	45	7	7	4	27	90
Consultation	186	280	103	181	287	1037
Telephone	1213	1167	856	837	1861	5934
Website	8	37	2	0	4	51
Total	1766	1863	1283	1158	3440	9510
<b>February 2005</b>						
Counter	320	333	288	239	1255	2435
Email	29	9	6	6	36	86
Consultation	133	238	74	264	441	1150
Telephone	1063	1025	756	962	2203	6009
Website	5	128	1	1	3	138
Total	1550	1733	1125	1472	3938	9818
<b>March 2005</b>						
Counter	430	422	286	243	1409	2790
Email	27	7	3	7	32	76
Consultation	194	301	121	276	494	1386
Telephone	1238	1051	1014	1045	2332	6680
Website	6	138	0	4	3	151
Total	1895	1919	1424	1575	4270	11083

### April 2005

Counter	433	367	311	222	1311	2644
Email	36	15	11	4	27	93
Consultation	222	285	147	245	610	1509
Telephone	1094	1033	1052	943	2006	6128
Website	6	93	0	1	7	107
Total	1791	1793	1521	1415	3961	10481

It soon became clear that the public were able to locate the Legal Services Counters better and better, though publicity could be improved. It was too early for a publicity campaign, as this would require almost all Counters to be opened.

The following data of the provision of services were recorded for the development year 2005:

Kind of Contact		Kind of Assistance		Field of law	
Telephone	62%	Clarification of question	79%	Employment Law	22%
Counter	22%	Consultation appointment	11%	Social security	4%
Consultation	14%	Referral to private lawyers	9%	Social insurance	5%
Email/website	2%	Other	1%	Landlord and tenant	8%
				Consumers Law	18%
				Family Law	13%
				Private Law	10%
				Criminal Law	4%
				Aliens Law	5%

And the following about the clients and their characteristics:

Gender		Age			
Female	48%	< 20	2%	45-49	11%
Male	52%	20-24	9%	50-54	8%
		25-29	13%	55-59	6%
		30-34	13%	60-64	4%
		35-39	14%	> 64	6%
		40-44	14%		

As to the development of arrangements, it was observed that the legal profession had a growing interest in the arrangement of legal aid packages.

These observations of the project organisation were later also confirmed by the official Legal Aid Monitor 2005.

During the trial period of the first two Legal Services Counters, it also appeared that a sufficient number of staff of Legal Aid and Advice Centres was interested in and motivated to switch to the Legal Services Counter. It also showed that potential

collaboration partners had more than satisfactory interest in the activities of the Legal Services Counter.

## F. THE FIRST ADAPTATIONS

### **Familiarity with the Legal Services Counter**

The familiarity of the litigants with the Legal Services Counter proved to be mainly established via relations and (external) chain partners. The Legal Aid and Advice Centres had an important (referral) role in this from the start. However, the interim review showed that the recognizability of the Legal Services Counter could be improved. This was resolved by lettering the windows, putting up signs and increasing transparency of the premises. It was also expected that familiarity would increase when more Legal Services Counters were opened, more litigants made use of the Counter, and more periodical and topical news items about the Counter appeared in the media.

### **Satisfaction of the litigant**

The signalled privacy problems at the counter demanded prompt solution. It was remedied by a new layout of the information square and by applying better sound-suppressing material above and between the different counters.

### **Satisfaction of the legal profession**

At the request of the legal profession, it was decided to supply more information when a client was referred. It involved the client's telephone number in case the date of the appointment had to be changed or inquiries had to be made when a client did not show up for an appointment, and also to know the name of the opposite party. Especially the latter was important to the lawyer to determine whether the other party was already one of the office's clients to avoid a possible conflict of interest in advance.

### **Mediation**

The start of the Legal Services Counters took place at the time that the Minister of Justice further developed the promotion programme for mediation. Considering the front office position of the Legal Services Counter, it was decided to give the Counter an important role in developing mediation. For this purpose, a referral facility was realised for all Counters. Staff were specifically trained to propose mediation as a problem-solving strategy. For the time until the end of 2009, there was 'extra' information at the Counter to 'promote' mediation activities.

Referrals for mediation were part of the usual range of duties of the Legal Services Counter.

### **Roll-out**

Based on the results of the interim review, it could be decided with enough confidence to start developing the other 28 Legal Services Counters as meanwhile planned. After consultations between the Minister of Justice and the Boards it was decided accordingly. This took place promptly after making the adaptations, and all Legal Services Counters could be used in the spring of 2006.

## **G. THE PROCESS: PLEASANT SURPRISES AND SETBACKS**

Of course, the reform process had some pleasant surprises but also disappointments.

### **Pleasant surprises**

- the enthusiasm of the majority of the staff of the Legal Aid and Advice Centres;
- the potential of hidden talents in the Legal Aid and Advice Centres;
- the spontaneity and the large degree of commitment during the meetings of working parties, mind-set meetings and ICT developments;
- the realisation of all sorts of documents, such as the products manual;
- the appearance of the new organisation;
- the interest of potential collaboration partners;
- the commitment of the legal profession and the way in which the package deals worked;
- the support by the Ministry during the transformation process;
- the clarity about the available budget beforehand;
- the limited extra costs (redundancy payments, etc;) and the financial consequences

### **Setbacks**

- the negative attitude of a large number of managements of the Legal Aid and Advice Centres;
- the duration of political decision-making: intended decision-making was often delayed which helped kindle the existing doubts and incited energy to opponents;
- the period of the top-down approach. Conferences and workshops could have realised a well-functioning machine earlier;
- the long time before suitable and affordable accommodations for the Counters were available;
- concurrence of all kinds of training sessions and educational meetings;
- the failure of introducing the consumers' Counter as part of the Legal Services Counter;
- the rate at which the ICT facilities could be realised;
- security costs attached to choosing open and community-minded establishments.

## I. THE ILAG CONFERENCE

During the ILAG conference of 2005, which took place halfway through the reforms, the opinions on the state of affairs were somewhat divided. Though concerns for the level of acceptance and support for the system were shared, the ideas about how to develop it were not.

Had we taken the right path?

The Boards for Legal Aid described the situation then as follows:

The experience of the first period shows that we are on the right path with the latest modifications to the system.

- The system provides a service for citizens who need support. They can obtain information from the Legal Services Counters at an early stage.
- The system has been made more transparent and there is a clear incentive to arrive at a proper judgement.
- There is a good spread of all kinds of facilities (frontline and backline services throughout the country).
- The quality of the service can be better measured.
- A monitoring system has been developed for properly tracking developments in the field and elsewhere.
- There is an adequate structure for contributions by the applicant: free of charge up to one hour, and € 13.50 for up to 3 hours. The amount of the contribution for further advice and assistance will depend on the income of the client.
- The service providers receive a good price and service from the Boards.
- The level of client satisfaction with the service is certainly encouraging, although further improvements to the service are of course always possible.
- The costs of the system are under control.
- Alternatives such as mediation and debt counselling are available.

The discussion and input of other jurisdictions formed a perfect incentive to make the best of concluding the project properly and to make the change of system a complete success.

## J. THE PRESENT SITUATION

Perhaps the present situation can be described best with the help of available figures. Indeed, the proof of the pudding is in the eating.

For this survey, the data were used from the latest Legal Aid Monitor and hardly need any explanation.

### Contacts

In 2006, all offices of the Legal Services Counter together had in total 575,315 contacts with litigants. This was more than the targeted 457,000 contacts, and well over the number of contacts that the Legal Aid and Advice Centres realised. This can therefore be seen as successful.

In 2004, when the first Counters became operational, the total number of contacts of the Centres and the Counters together were almost 10% lower than the number of contacts registered by the Legal Aid and Advice Centres in 2003. The figures in Table 1 show that the number of contacts of the Legal Services Counters was raised a fourth as compared with the Legal Aid and Advice Centres in 2002, which was the highest number ever reached by the Centres. However, it must be said that comparing the figures of the Centres to those of the Legal Services Counters was complicated since the Centres and the Counters had a different way of registering the contacts.

**Table 1 Counter, telephone and Email contacts between litigants and Legal Aid and Advice Centres of Legal Counter**

Year	Number of contacts Legal Aid and Advice Centres	Number of contacts Legal Services Counters	Total	Indexed total
2000	448,091	0	448,091	100
2001	429,697	0	429,697	96
2002	457,004	0	457,004	102
2003	440,158	0	440,158	98
2004	358,854	39,604 <sup>3</sup>	398,458	89
2005 <sup>4</sup>	Not available	261,700	Not available	Not available
2006	-	575,315	575,315	128

### Channels

Table 2 gives a survey of the channels along which the litigants contacted the locations of the Legal Services Counters in 2006. The contacts by telephone and at the Counter were the most important; slightly less than two-third of the contacts took place by telephone and a little less than one quarter at the Counter. This division is hardly different from the 2005 figures. The share of digital contacts via Email was almost doubled in terms of percentage (from 1.8% in 2005 to 3.4% in 2006) and increased fourfold in absolute terms.

<sup>3</sup> The number is related to the contacts registered at the locations in Breda, Den Bosch, Eindhoven, Leiden and Rotterdam. Breda and Rotterdam became operational in June 2004; the other Legal Services Counters at the end of 2004. This means that 80% of the contacts was registered at the first two Counters.

<sup>4</sup> Most figures of 2005 are not available, as most Legal Aid Offices were transformed into Legal Services Counters in the course of 2005.

**Table 2 Channels through which the litigants contacted the Legal Services Counters in 2005 and 2006, in numbers and percentages**

Contact channel	Legal Services Counter 2005 in numbers	Legal Services Counters 2005 in percentages	Legal Services Counter 2006 in numbers	Legal Services Counter 2006 in percentages
Telephone	163,086	62	344,836	60
At the counter	58,277	22	124,100	22
Consultation	35,557	14	86,639	15
Email/Website	4,780	2	19,740	3
Total number of contacts	261,700	100	575,315	100

Towards the end of 2005, the website of the Legal Services Counter started with a new design. The Counter had had a website before, but it was rather static, as management was not arranged. The new website was primarily focussed on the client of the Legal Services Counter and meant as a third way of accessing the provision of the legal service. The information was divided into a number of themes. The selection of the subjects for publication on the site took place on the basis of criteria, such as 1) whether many questions were asked about a certain subject or whether it is a situation that often takes place, and 2) is it a subject that can be handled by the client (with the help of information and perhaps a sample letter). The client's self-reliance and their questions were at the centre. In addition to the thematic part for the client, the website had an organisational part where information about the Legal Services Counter was given with all addresses and opening hours of the locations. It was also quite easy to send an email with a question with the help of a *button*. The email was then sent to the nearest Legal Services Counter. There are no plans for introducing changes in the website in the short term, but for the long term there are plans to apply a form of steering to the three accesses to the legal service (the Counter, the telephone and the website).

### Number of ancillary products

In 2006, some 629,457 ancillary products were provided, and this was more than double as compared to 2005. This is 1.09 ancillary products on average per contact; this was 1.07 in 2005. Besides these ancillary products, an 'administrative' ancillary product was provided in 5,694 cases; there were 2,992<sup>5</sup> of these cases in 2005.

The ancillary product most often offered was providing information and clarifying questions (82%). 11% of the ancillary products were referrals to consultations and 6% of the ancillary products were referrals to lawyers in private practice. The latter percentage was lower than in 2005. Though the share of referrals to mediation was less than 1%, the absolute number saw a spectacular rise as compared to 2005 (the number increased nearly sevenfold).

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<sup>5</sup> An administrative ancillary product includes cancelling or changing an appointment.

**Table 2 Kind of ancillary products provided by the Legal Services Counter in 2005 and 2006, in percentages and in numbers**

Kind of ancillary product	Percentage in 2005	Numbers in 2005	Percentage in 2006	Numbers in 2006
Providing information / clarifying the questions	80	222,985	82	515,901
Referrals to consultation	11	29,770	11	69,959
Referrals to the legal profession	9	26,395	6	40,756
Referrals to mediation	<1	424	<1	2,841
Total	100	279,574	100	629,457

### Fields of law

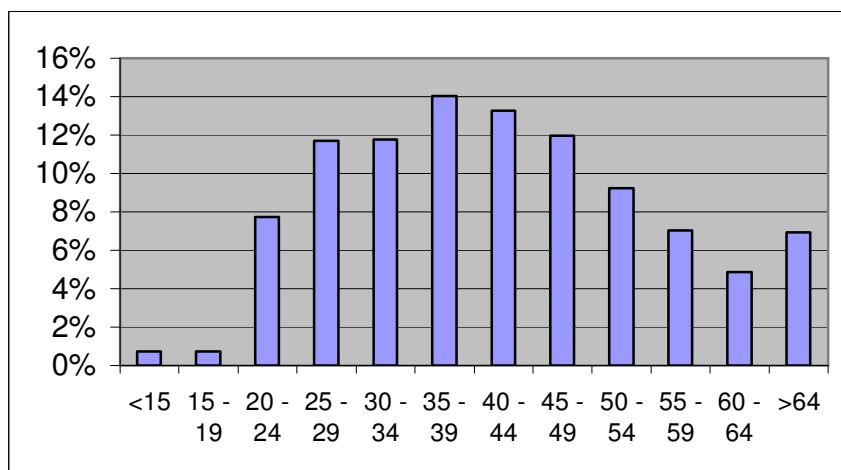
Of all requests for help, most of them related to a problem within the scope of employment law (20%), Consumers law (20%), personal and family law (14%) and other fields of civil law (remaining group of private law) (14%).

### Characteristics of the clients

#### Age

The largest category was in the 35-39 age-bracket (14%). Almost half of the clients were below the age of 40, which concurs with the division in the Dutch population.<sup>6</sup>

**Diagram 1 Age division of users of the Counter in percentages**



There were hardly any differences between age groups when considering the way in which the Legal Services Counter was contacted, with the exception of the rather small group below the age of 15 years (0.7%); this group used email and the Legal Services Counter relatively more often, but used contacts by telephone or attending consultations of the Legal Services Counter less often.

#### Gender

<sup>6</sup> Of the whole Dutch population, about 51% is below the age of 40 (Source: CBS Statistics Netherlands)

The figures of the enriched registration revealed that of all people willing to respond to extra questions 52% were female, and 48% were male.

**Table 4 Contact channel per gender in percentages**

Gender	Enriched registration	
	Male n=10,969	Female n=11,745
The Counter	58	42
Email	53	47
Consultation	49	51
Telephone	44	56
Website	52	48

The above table shows that, in general, men were more inclined to seek contact via the Counter, whereas women were more inclined to establish contact by telephone.

#### *Family composition*

The enriched registration also gave information about the composition of the family. Half of the persons that made use of the Legal Services Counter were the only adult in the family. Over 40% was part of a family with one or more minor children.

**Table 5 Composition of the Counter users' households in the enriched registration: number of adults**

Number of adults	Enriched registration	
	Number	Percentages
1	9,630	49
2	9,232	47
Three or more	775	4
Total	19,637	100

**Table 6 Composition of the Counter users' households in the enriched registration: number of minor children**

Number of minor children	Enriched registration	
	Number	Percentages
0	11,204	58
1	3,299	17
2	3,185	17
3	1,098	6
More than 3	481	2
Total	19,267	100

The number of clients with a one-parent family was 13%; this was 6% of the households of the Netherlands (CBS Statistics Netherlands) and means that single-parent families are overrepresented as clients of the Legal Services Counter. Of these clients, the number of single adults without children was 35%.<sup>7</sup>

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<sup>7</sup> This is 35 % of the households nationwide. (Source: CBS Statistics Netherlands)

### *Educational level*

The enriched registration also asked questions about educational levels. One forth of the respondents had higher education (higher professional education or university), 10% had lower education, which meant only primary education or an education level below secondary vocational education or secondary school.

**Table 7 Highest educational level of the Counter's users in January 2006**

<i>Highest completed education</i>	<i>Number</i>	<i>Percentage</i>
Elementary school	758	10
Secondary vocational education (MBO)	2,915	38
Secondary school	1,909	25
Higher vocational education (HBO)	1,347	18
University	367	5
Other	387	5
Total	7,683	100

After the first round of enriched registration it appeared that the above division in categories of educational level did not come up to the mark, and the categories had to be reclassified. That is why the figures of September cannot be compared one to one with the figures of January/February, but show a comparable picture. Compared with the national figures<sup>8</sup> it shows that the group of users of the Counters with a university *master* title was smaller (nationally 9%) and the group of people with a pre-vocational secondary education certificate (VMBO) was bigger (nationally 24%) than the groups in question on the basis of national figures.

**Table 8 highest level of education of users of the Counter in September 2006**

<i>Highest completes education</i>	<i>Number</i>	<i>Percentage</i>
Elementary school	881	8
Lower vocational, pre-vocational and junior general secondary education [LBO/MAVO/VMBO]	3,924	34
Secondary Education, higher general and vocational [HAVO/MBO]	4,002	35
Pre-university, Higher Vocational Education and University Bachelor[VWO/HBO/B.]	2,554	22
University Master	209	2
Total	11,570	100

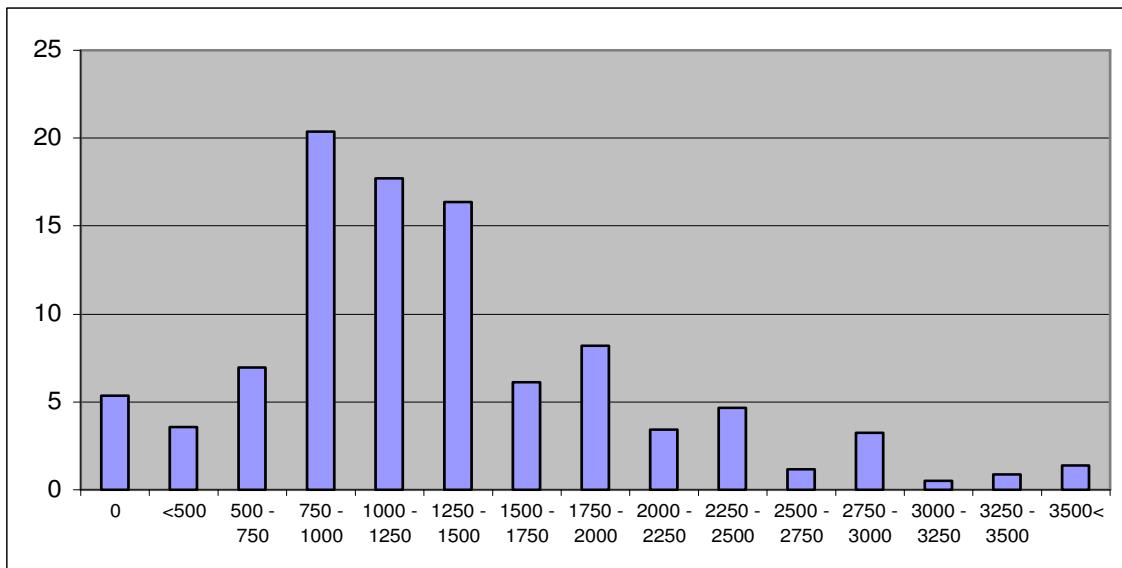
Striking was the preference of people with only elementary education to make contact via the Counter. Though nothing can be said about the reasons yet, this phenomenon will receive proper attention in the following users' survey.

### *Income division*

In the enriched registration, the clients could also indicate their (estimated) net household income. On average, the indicated income was € 1,460; half of the clients had an income of € 1,200 or lower.

<sup>8</sup> CBS Statistics Netherlands, Statline, February 2007.

**Diagram 2 Income division of users of the Counter in percentages**



#### *How the clients found their way to the Legal Services Counter*

The clients of the Legal Services Counters were asked to indicate how they found their way to the Counter. This was most often of their own accord, via former Legal Aid and Advice Centres or via relatives, friends or acquaintances.

**Table 9 Ways in which respondents found their way to the Legal Services Counters, in percentages**

Person or institution making the referral	Percentage
Of their own accord	18
Legal Aid and Advice Centre (former)	10
Relatives, friends or acquaintances	8
Via the Internet	5
Employment Office/CWI Centre for Work and Income	5
General social work	4
Lawyer	5
Citizens Advice Bureau or Legal Advice Centre	3
Other	42
Total	100

#### **Users' satisfaction**

The questionnaire within the scope of referral arrangement also asked the litigant about their experiences with the Legal Services Counter. An average of 83% of the persons questioned would approach the Legal Counter again if they had another problem, and an average of 6% would let it depend on the nature of the problem.

Table 10 gives the reasons for contacting the Counter again. These were questions with several possible answers. More than half of the persons saying that they would contact the Legal Counter again indicated that they would do this because they were helped

adequately (58%), but the promptness of handling their questions, the low costs and the low threshold also played a part in their decision.

**Table 10: Reasons for choosing again for the Counter (n=498)**

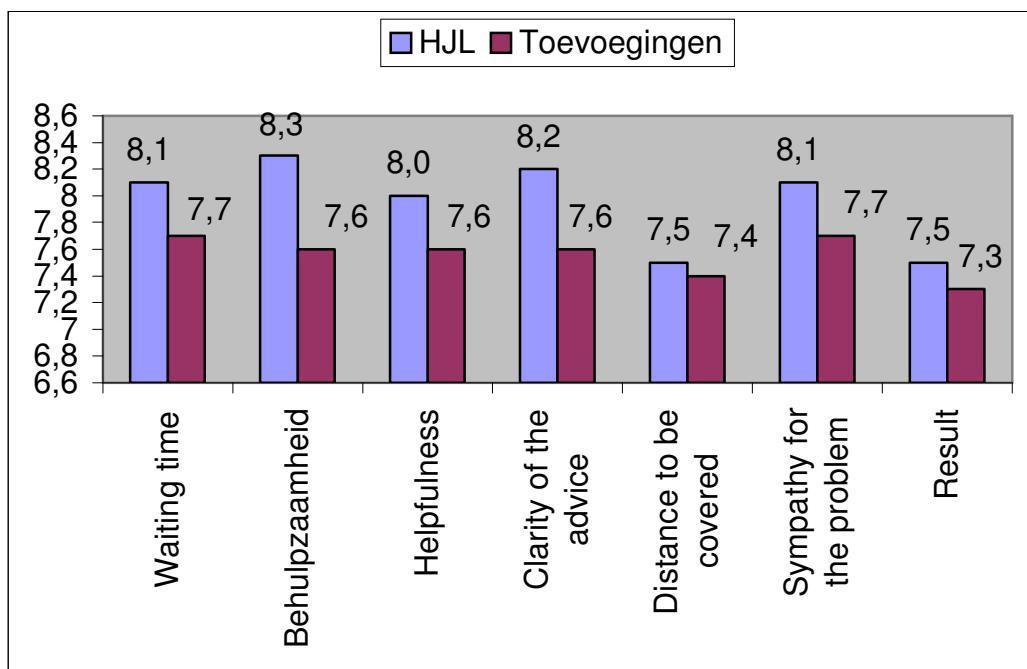
<i>Reasons for approaching the Legal Services Counter again</i>	<i>Total in percentages</i>
Helped properly	58
Helped promptly	17
Low costs	14
Accessibility / low threshold	11
Expertise / proper referral	9
Does not know the way	7
Received proper advice	4
The Legal Counter shows you the way	3
Easy and handy	2
Proper information	2
Cannot go anywhere else	1
Treated well	1
Good service	1
Trust	1
Does not know /no opinion	<1
Other	10

However, about 11% of the public that contacted the Legal Services Counter expressed that they would make *no* further use of the Legal Services Counter in future. About one-third of them found that they were not helped well. About 3% of the total number said that they would contact a lawyer directly.

As a result of the referral arrangement, a survey was made among the users of the Counter in October and November. The users of the Counter were asked to rate, on a scale from 1 to 10, how satisfied they were about a number of aspects of the legal services rendered. The respondents were divided into two groups: the users of the Legal Services Counter and the users of certificates (applications). However, it should be noted that this only refers to an indication, as this facility had been started only shortly before this survey was conducted. Their opinions are compared with the opinions of the users of legal aid, which had already been published in the Monitor of Subsidized Legal Aid (MGR) 2005. The users of the certificates will be interviewed again in 2007.

The respondents' general opinion was that they were satisfied with the legal assistance that they had received. The values of the average satisfaction were above 7.0 for all aspects of the interview. It was interesting to see that the users of the Legal Services Counter gave a higher mark for satisfaction than the users of the certificates. Diagram 3 shows the satisfaction scores of the users of the Counters and the legal aid users regarding the waiting time for an appointment, the helpfulness of the provider or legal assistance, the expertise, the clarity of the advice, the distance that the litigant had to travel to get legal assistance, the legal assistance provider's appreciation for the problem, and the result of the legal assistance.

**Diagram 3 Assessment of the legal assistance rendered concerning the waiting time, the helpfulness, expertise, clarity of the advice, distance, appreciation of the problem, and the result.**



HJL = Legal services Counters

Toevoegingen = Certificates

Please read , as .

When comparing these figures with those of the survey collected for the MGR2003 monitor, it can be noted that the satisfaction scores of the users of the Counters were on all points higher than those of the users of Legal Aid and Advice Centres, with the exception of the distance that had to be covered (it was 7.9 then, it is 7.5 now).<sup>9</sup> Perhaps the users of the Legal Services Counter were actually more satisfied, but this difference may be the result of the different kind of help that was offered by the Legal Services Counter, which usually goes together with a shorter contact. The differences between the present figures and those of the MGR2003 are only marginal for the users of the certificates.

All in all, it is heartening to see that satisfaction with the provided legal services has increased in the last few years. Comparing these scores it can be tentatively concluded that primary legal services has become more in line with the litigants' expectations.

In general, the litigants assessed the Legal Services Counter with report mark 8.

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<sup>9</sup> It must be observed here that it is difficult to compare the present marks with the marks given for the Legal Aid Offices, and some care is therefore required in comparing figures.

## **PR**

The present situation saw also the realisation of an extensive PR campaign for the Legal Services Counters in 2006, with which the system and the Counter were brought to the attention of a large public. A (modest) structural PR budget for the Legal Services Counter has meanwhile been provided for.

## **Mediation**

Mediation was added to the products repertory of the Legal Services Counter as a fully-fledged product.

## **Quality**

Slowly but surely, the providers of legal services had to meet more quality requirements. Both lawyers and mediators have to be registered with the Legal Aid Boards for participation. These Boards ensure that the legal service providers meet the requirements set in consultation with the legal profession, the Ministry of Justice and, regarding the mediations also with the Council for the Judiciary. Client satisfaction surveys and, starting from 2007, peer reviews will also be part of these quality requirements

## **Self-service**

Far-reaching preparations for the possibility of self-service have been made in the system of subsidized legal assistance (See Delta G under L).

## **K. WHAT OTHER CHALLENGES DEMAND A SOLUTION?**

Even though we are content with the first results so shortly after the start of the Legal Services Counter, this does not mean that we have reached the point of resting on our laurels.

The following matters will require extra attention in the next few years:

### **Multi-problems or clusters of problems**

Citizens that seem to be magnets when it comes to attracting problems and that find themselves landing in one problematic situation after another appear to be neither able to find their way to proper support nor to the Legal Services Counter.

It is striking that so far there have been relatively few questions for assistance in social insurances and facilities and tax questions. Benefits agencies and the Tax Office are the largest suppliers of complaints to the National Ombudsman and it seems odd that these people did not contact the Legal Services Counter. Another striking feature is that the number of clients with no or hardly any education is so small. They are often the persons who have major problems with benefits agencies, the Tax Office, municipalities and social security administration agencies.

A timely and proper approach of this (potential) issue may avoid a cascade of problems. To reach these groups of clients, it is necessary to have the right attitude, a proper communication and alertness. The Legal Services Counter would have to be the proper gateway for them. Though not everything can be done at once, here lies an unexplored field. A good gateway with the right approach can avoid much social damage here.

### **Uniformity and quality**

In the spring of 2006, the Legal Aid Boards together with students, trainees and mystery guests conducted a survey into the services and the method of working of the Legal Services Counter. The aim was to investigate whether the contents of and the manner of providing the services by the Counter had a uniform and recognizable structure, method or working and appearance throughout the country. The conclusions of the survey report ‘One Counter, One Organisation [*‘Eén Loket, Eén organisatie’*] of August 2006, are concentrated on the realisation of the products manual and the protocols, and the starting-points from the report ‘Framework of forming the Legal Services Counter’ [*Raamwerk vorming Juridisch Loket*]. Recommendations were also formulated.

The final conclusions of the report were that the staff of the Legal Services Counter were not yet working in conformity with the protocol and the products manual. This is why the researchers concluded that a nationwide uniform implementation of the contents and the way in which the services of the Legal Services Counter were carried out were not yet up to the mark. To reach this aim, they also considered the products manual and the protocols to be important management means. At this point they remarked that most staff were very client-oriented and that they carried out the quality of the service as best as they could with the possibilities they have at their disposal. Their care for the client is generally excellent, judging by the large degree of appreciation shown in the earlier

client-satisfaction survey. However, the researchers concluded that there was one nationwide uniform representation.

For the Legal Services Counter, the report was the prelude to giving a solid impulse to quality thinking, after having put in great efforts to realise the 30 Counters. As was rightly stated in the report, the survey was only a snapshot of the developments of the Legal Services Counter. Certain issues in the report have already been tackled and other items were planned, such as adjustments in the policy on training, further uniformization of the service, deciding on the range of the services and training location managers in effective coaching (focussing more on clarifying the question and using the products manual and protocols).

Moreover, the topicality and accessibility of the products manual were addressed, as they form important conditions for using the manual properly. Including the manual in the web top and later on the Intranet would make the products manual more easily accessible. With the ‘Organising Knowledge’ project, the Legal Services Counter guaranteed the topicality of the manual. The core of this project is that the senior legal assistant will be responsible for updating a number of products chapters from the products manual. Over thirty senior legal assistants will cover the entire contents of the manual. The Department for the Development of Services of the Legal Services Counter will take care of a light test and of the distribution in the country. In this way, the topicality can be guaranteed.

Quality of and uniformity in the provision of services are therefore important themes in 2007 and the years after. A strong point is that there is the understanding within the organisation that this may and must be turned to their advantage. That is why the Legal Services Counter decided to give in the policy on education ample attention to the skills in clarifying the question and in general more competence-oriented training in 2007, in addition to the ‘Organising Knowledge’ project.

Further improvement of quality is important now that the organisation has come to the phase of fine-tuning, knowing that quality is for the organisation the right to exist: the client is entitled to the provision of qualitatively proper services, wherever in the Netherlands.

### **Information and Communication Technology (ICT)**

Much progress can be made in the field of ICT. This involves further fine-tuning and linking to information systems of chain partners and referrers. The shorter the lines, the better the prospects for exchange, and the quicker information can be linked and used. There are of course risks attached, of which the right of privacy, confidentiality and possible improper use or even abuse are the biggest. A proper balance between the advantages and disadvantages must be found whereby the interest of the person requesting help must come first.

Solid supply of data and information and an accurate description of the case yield substantial profits. When the Legal Services Counter records appointments directly in a lawyer’s or mediator’s diary it will also remove obstacles making that the provision of services will be improved.

The Internet offers many opportunities to supply the public with methods to get information in the earliest possible stage of a problem situation. Of course, the power of the means must not be overestimated and accessibility to the Internet is not always in store for everybody, but it can be a very user-friendly and cheap means without a threshold and can help the public analyse the problem and explore the various solutions at an early stage. (See also the next chapter under Delta G).

### **Funding system for the Legal Services Counter**

All public services cost the Government money. A transparent form of funding must be developed for the Legal Services Counters. Size, quality and orientation on the provision of service must be the guidelines.

### **Risk analysis**

The Legal Services Counter is a relatively young organisation in a system that has had a history of 50 years. Being a relatively new organisation, it is the art to make proper and timely use of the experiences in the past, and to anticipate adequately social developments. The government-funded provision of service will be permanently subjected to discussion. How, and to what extent, will the government be responsible, and to what level? Together with the Legal Aid Boards, the Legal Services Counter must always have a ready answer to these questions. This means that it must be clear what value the Legal Services Counter adds to the legal system and the welfare of the public.

## L. FURTHER RENOVATION

### **Delta G**

With the programme ‘The Other Government’[*De Andere Overheid*], the government set itself an objective to confine itself to its core tasks and to carry out these tasks better: simpler, more efficiently, more effectively. At the same time, the public will have more possibilities to organise their own lives. This also implies that the public, both individually and organised, must do more. This renovation of public administration and improvement of public performance is the responsibility of the government, social security administration agencies, provinces, municipalities and other authorities together. From this point of view, the Legal Aid Boards must encourage the public’s self-reliance more. To achieve this, they must also create space in which the public will be better able to make appointments independently and to solve any disputes that may ensue from this.

The Legal Aid Boards must therefore ensure that the litigant can find his way (demand-driven) to get answers to his questions, if necessary by making an appointment with a qualified supplier (the Legal Services Counter, mediator, private lawyer), whereby the litigant must find his way (virtually) independently and directly.

The gateway he finds within the system should not influence the result. For instance, the litigant may find access to the system via the website of the Legal Aid Boards or via the website of the Legal Services Counter.

Depending on his question (from simply casuistic to complex or general) the litigant will be offered help and support and, after having been offered an answer to his request for assistance, be helped further, or referred to making an appointment with a suitable supplier of the most appropriate help.

The attention of Delta G initially goes to mediation (this variant is elaborated most), but the elaboration is of such nature that the solution is applicable to all options.

In all this, the litigant is not aware on which website he is, as it is not important to him to know what organisation manages the content of a site.

The Boards drew up the Delta G project to reach this target. The delivery has meanwhile taken place.

### **ECC**

Though a separate Counter for consumer complaints was created under the responsibility of the Minister of Economic Affairs, plans were developed to include in any case ECC European Consumers Centre in the Legal Services Counter. The result of this will be that requests for help with EU aspects will as much as possible be dealt with via the concept of the Legal Services Counter. The Counters will be the best entrance, and a further developed website may be an important contribution towards problems with international aspects.

As to the assistance provided, one can distinguish two main lines:

1. persons residing in the Netherlands who have a complaint which must be referred to another country.

2. persons staying in another country who have a problem that must be solved in the Netherlands.

Re 1: These cases can be dealt with at the Legal Services Counters whereby a special unit can serve as back office to refer cases to sister partners in affiliated countries.

Re 2: These cases will usually enter via the other ECC partners or website and can be dealt with by the special unit.

Implementation is provided for in 2007.

#### **Peer review**

Experiments are presently being conducted on a modest scale to use peer review as quality instrument within this system. The first experiments have been conducted with the Viadicte Foundation in the district of 's-Hertogenbosch (see also the paper by Guido Schakenraad, Chairman of Viadicte).

#### **Preferred supplier**

By way of experiment it was also considered to let legal assistance suppliers who satisfy the highest quality requirements rank first when referrals are made by the Legal Services Counter and for various defence counsel roster duties (duty solicitor's scheme).

## M. THE FOUR MOST IMPORTANT LESSONS LEARNED

There are always lessons to be drawn from processes of change, and this process is no exception. The chapter on ‘Pleasant surprises and setbacks’ has already given some hints in that direction. After having completed the implementation, there are in my opinion four important lessons that stand out:

1. Strategic behaviour of the legal profession is difficult to predict and it works out almost always differently than studies and research show. It is always different from what you expect, sometimes more encouraging, sometimes more discouraging. It is an important certainty that this behaviour is hardly predictable and manageable. It is therefore not recommended to focus all attention on this and to let choices depend (only) on the positions that professional groups have. The variety, diversity, and the position in the market of the provision of legal services are too exceptional.
2. On the other hand, strategic behaviour of the litigant is much more predictable. That is why studies are rather reliable sources of inspiration for changes. The litigants’ needs as seen from the angle of the provider of services are certainly not the same as the needs of the litigants themselves. Understanding the pure picture of the needs will therefore be a guaranty for the only proper direction and for stability.

The conclusions drawn from points 1 and 2 are that the change from supply-driven to demand-driven steering of the system of subsidized legal assistance can be seen as an important advantage of this reform. The introduction of the Legal Services Counter has made the market more transparent; the litigant’s question has gained a central place, and we have seen that the supply has adapted well to this.

3. Uniformity in the provision of service and a uniform presentation of primary services make it easy to communicate about it. Communication is crucial for a form of service that one does not need every day, but perhaps once in a lifetime. Legal services are very different from medical services, among other things. The Legal Services Counter has many forms of uniformity and will develop this further. That the organisation has integrated so swiftly is also owing to this.
4. Unravelling the public and private tasks of the Legal Aid and Advice Centres resulted in a new and much professionalized primary facility. It is almost unavoidable that the lesson learned is that with an institution that has private and public functions, the private part swallows the larger share while the public part develops insufficiently. The lesson learned with this project is that the Legal Aid and Advice Centres could have done this earlier, but that these organisations developed in another direction and that more and more attention was given to private tasks.

## **N. PUBLIC ACCOUNTABILITY**

In my opinion, with the Legal Services Counter we have set up an open and transparent organisation with clear functions and demarcations. The government can be proud of it. As this concept is vulnerable, the Legal Aid Boards must guard the concept closely.

Monitoring, client satisfaction surveys, commitment of the legal profession and measuring the effectiveness are important aspects for the future.

To me it seems that substantial steering and quality control with, among other things, the help of the protocols manual and training programmes are solidly enshrined.

With the Legal Services Counter, an excellent opportunity for early information and intervention is created for the public. A solid network with referrals and alternative forms of conflict resolution is set up. To reach this level may not be so difficult, but staying there all the more.

## **Enclosure 1**

### **Milestones in the Dutch system**

**1957:** The first Legal Aid Act introduced statutory regulation of legal aid, in particular the provision of free (*pro deo*) representation in court by lawyers in private practice.

**1969:** The first Law Shop was opened. Law students discovered a great gap in the provision of legal help and established 'law shops' in nearly every big city.

**1975:** The first Legal Advice and Assistance Centre was opened. Staff members provide legal advice and assistance and assess legal aid applications.

**1978:** Legal aid became a constitutional right.

From 1978 onwards the Legal Advice and Assistance Centres grew rapidly, but it gradually became clear that the process was getting out of control. The problem lay in the fact that one and the same organisation was responsible for both assessing applications for legal aid and providing the advice and assistance.

**1994:** The new Legal Aid Act introduced Legal Aid Boards. From now on there was a clear separation between the organisation responsible for assessing legal aid applications and that responsible for providing legal advice and assistance.

Before 1994 there was no budgetary control of legal aid and no adequate supervision. This created an abiding impression of abuse and misuse. These subjects were in fact the main issues dealt with by parliament.

The Legal Aid Act (*Wet op de Rechtsbijstand or Wrb*) entered into force on 1 January 1994. It replaced the 1957 Legal Aid for Indigent Persons Act (*Wet Rechtsbijstand aan On- en Minvermogenden or WROM*). The four main goals of the 1994 Act were expressed in the explanatory memorandum:

- to give applicants access to justice;
- to provide a sufficient number of legal aid professionals;
- to manage costs better;  
and
- to modernise the organisation.

An important new element of the Act was the transfer of responsibility for its implementation from the Legal Aid Centres and registrars of the district courts to the newly founded Legal Aid Boards organised according to area of jurisdiction. The legal advice and assistance itself is provided to applicants by lawyers (*advocaten*) and by the staff of the Legal Advice and Assistance Centres (*stichtingen rechtsbijstand*) just as before. The participating lawyers must for the first time meet certain registration conditions and the centres have legal status.

The 1994 Act stipulated that an evaluation of its operation should be carried out before 1 January 1999.

**1998:** Positive evaluation of the 1994 Legal Aid Act.<sup>10</sup>

The legislative evaluation was based on various external and internal academic surveys, analyses of operating processes and operating data. The report was discussed during a round table evaluation in which the organisations involved were represented. Although they were satisfied with the way the system had developed in recent years, they noted that the choices in the period under review had been made by the legislator and that they were not entirely in line with the wishes of those involved and that the policy plans contained in the report were not supported by all parties.

It was also noted in the evaluation that amendments to certain important aspects could not be deferred until the statutory evaluation. Problems that emerged in practice should be tackled directly wherever possible. However, not everything could be resolved. The report noted that subjects requiring attention in the period after 1999 would include the issue of the price/quality ratio in legal work, the positioning of the Legal Advice and Assistance Centres and the decisiveness of the boards on policy matters. The report also listed the difficulties that had already been resolved or were yet to be resolved.<sup>11</sup>

**2001:** Survey of the Future. In 2000 the Legal Aid Boards commissioned a study of relevant trends and expectations. This survey was carried out by the Verweij Jonker Institute, a socio-scientific research institute and formed the basis for further research and discussion<sup>12</sup>

In its survey of future developments the Verweij-Jonker Institute made the following proposals for modification of the system:

1. introduce a Legal Services Counter in order to ensure that the legal aid system remains accessible and to guarantee the transparency of the market;
2. enhance the quality of the service still further;
3. introduce demand-driven control of the system.

**2002:** Advisory Report of the Committee on the Future Organisation of the Legal Aid System (the Ouwerkerk Committee), February 2002.<sup>13</sup>

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<sup>10</sup> Evaluation of the Dutch Legal Aid Act, Ministry of Justice, 1999

<sup>11</sup> Section 1.6. General Conclusion of the evaluation: The general conclusion must be that the Wrb (Legal Aid Act 1994) meets the goals set at the time, that existing problems can be eradicated in practice by amending regulations but at the same time, amendments are still desirable and are possible in the future in order that the system will retain the required dynamism to be able to continue to work towards objectives also in the future.

<sup>12</sup> Toekomstverkenning Gefinancierde Rechtsbijstand (Survey of the Future of Legal Aid), January 2001, Dr R.A.L. Rijkschroeff et al.

<sup>13</sup> The Committee (known as the Ouwerkerk Committee after its chairman) considered that it was particularly regrettable that in the existing situation such a large proportion of the people in most pressing need of legal advice and assistance made no use of the first-line services of the Legal Aid, Advice and Assistance Centres, partly because they were unaware of the existence of the service. At the same time the Legal Aid, Advice and Assistance Centres were

**2004:** Introduction of the legal services counters: clear distinction between public and private functions and dismantling of the Legal Advice and Assistance Centres as public service bodies.

**2005:** Changes to the means test: information required for assessment of applications to be gathered by means of Electronic Data Exchange with the tax office and the registry office.

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concentrating more and more on providing the extended/full service and less and less on the first-line service. Against this background there was no reason to suppose that the under-use of the system would diminish.

## **Enclosure 2 State of Affairs Dutch Legal Aid system 2000-2003**

The Legal Aid Act of 1994 distinguished two legal services providers and specifies four types of services clients could apply for.

The Legal Aid and Advice Centres (LAAC) and the private lawyers (Bar members) were the providers.

The types of services: consultation, extended consultation, certificate and duty solicitor scheme.

- 1) All kind of legal problems (civil, administrative, criminal and immigration) could be put before staff lawyers of the *Legal Advice and Assistance Centres*. During so-called consultation hours, they could provide half-an-hour of free legal advice. The decision on whether or not an applicant fell within the limits set by the law was based only on a marginal means test by the staff of the centre.
- 2) If a legal problem needed more than half-an-hour of a lawyer's time but was expected to be solved relatively quickly, the staff of the *Legal Advice and Assistance Centres* could also provide legal help for a further three hours. The applicant was required to pay a fee of € 13.5. Access to these services was based on a rudimentary means test.
- 3) When a problem was expected to take a minimum of three and a half hours to solve, applicants were entitled to legal aid based on a certificate. For this purpose, the clients must provide (detailed) documents to prove both their income and their capital. Using these documents and a summary of the legal problem by the lawyer, the Board had to decide whether or not the application should be granted. If so, the applicants are required to pay a financial contribution according to their income. The amounts ranged from a minimum of € 90 to a maximum of € 769. In exceptional cases, exemption from this contribution was possible, particularly in criminal cases and asylum cases. If the applicant needed a second certificate within a period of six months, the required financial contribution was reduced.

This 'certificate procedure' applied to long-term legal aid provided by lawyers from the *Legal Advice and Assistance Centres*, but also *above all* to legal aid provided by *members of the Bar*. The decision on an application was taken formally and there were legal safeguards for the applicant and the lawyer concerned. They could ask for a review and can also appeal.

- 4) Duty solicitors scheme. This service was provided only by members of the Bar.

<i>Number of cases 2003</i>			
<i>Private lawyers</i>		<i>LAAC's</i>	
<i>Civil legal aid</i>	184,000	<i>Initial consultations</i>	440,000
<i>Criminal legal aid</i>	130,000	<i>Consultation &lt; 30 min</i>	173,000
<i>Asylum</i>	33,500	<i>Extended Consultation</i>	34,500
<i>Duty solicitor</i>	81,000	<i>Certificates</i>	8,300

When a case was completed, the lawyer billed the Legal Aid Board for the hours spent. Lawyers were paid a fixed fee under a system that differentiates according to the type of problem and the type of service provided (advice or procedural assistance). The time spent on the case was also taken into account.

Lawyers in private practice dealt with the great majority of legal aid work under the certificate scheme. In 2003, approximately 51% (6437) of the Dutch bar (12,691 lawyers) took part in the legal aid system, although most of them did this kind of work only intermittently.

Of the lawyers who participated in the system,

- 8% dealt with < 11 certificates per year
- 35% dealt with > 10 and < 51 certificates per year
- 25.5% dealt with > 50 and < 101 certificates per year
- 21% dealt with > 100 and < 201 certificates per year
- 10.5% dealt with > 200 certificates per year.

Lawyers in private practice provided little of the short-term type of legal advice and assistance, which was predominantly given by the staff lawyers employed by the Legal Advice and Assistance Centres. The predominance of lawyers in private practice in the provision of help under the certificate scheme was due in part to the fact that they were specialised in family law, consumers law, criminal law and asylum law, and in part to the fact that the client needed representation in court in various proceedings before the District Courts, the Courts of Appeal and the Supreme Court. There were only a few limitations that precluded the provision of assistance by a lawyer under the legal aid scheme in certain types of case, for example application for a permit.

Although the Legal Advice and Assistance Centres provided all types of legal advice and assistance, they were specialised in the provision of short-term legal advice and assistance. They were almost exclusively occupied with legal services for citizens with medium and low incomes and had tended to concentrate on the socio-legal fields. Approximately 95% of their cases could be dealt with by them without referral in a way which they called ‘one touch, one play’. Those centres had become specialised in a number of fields of social law such as labour law and social security, housing, immigration and consumer law. These Legal Advice and Assistance Centres employed about 250 staff lawyers (FTEs).

In addition, some 90 staff lawyers (FTEs) were employed by three centres that focus on providing legal advice and assistance to asylum seekers. They worked on the same basis as the Legal Advice and Assistance Centres, but only in this specific legal area.