

International Forum on Legal Aid Taiwan 2018

**National report of the Netherlands
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System characteristics Dutch legal aid system

- Everyone who cannot afford the costs of legal services is entitled to rely on the provisions of the Legal Aid Act (approximately 38 % of the population).
- A person who is single can rely on the provisions when his income is no more than €26.000 a year and for a family this is €36.800 a year. These limits are corrected for inflation each year.
- Dutch and foreign residents have the same rights.
- Legal Aid is granted in all legal cases (civil, criminal, administrative and emigration & asylum). System provides all legal services: information, advice, assistance and representation in court, mediation.
- First line legal aid is provided by Legal Service counters, 30 nationwide.
- Second line legal aid is provided by lawyers and mediators.

Client contributions

- Client-contributions are meant as a threshold: to prevent that legal aid is not lightly used
- Way of co-funding legal aid by users themselves
- Depending on income level
- Contribution-level is used to influence how clients use the system:
 - Visit to LSC: free of contribution, discount in case of referral to second line
 - Advice instead of litigation: lower contribution
 - Use of mediation: lower contribution
 - Use of legal aid online: lower contribution
- € 53 (mediation) - € 849 (litigation highest incomes)
- Contributions were raised in the last decade

Lawyers fees

- Fixed fee system
- Exception: payment on hourly base only in very complex cases, mainly criminal cases
- € 250 (short advice) - € 1.500 (labor law cases)

European figures

Total annual expenditure (million euros) and total expenditure per capita (euros)

Total expenditure

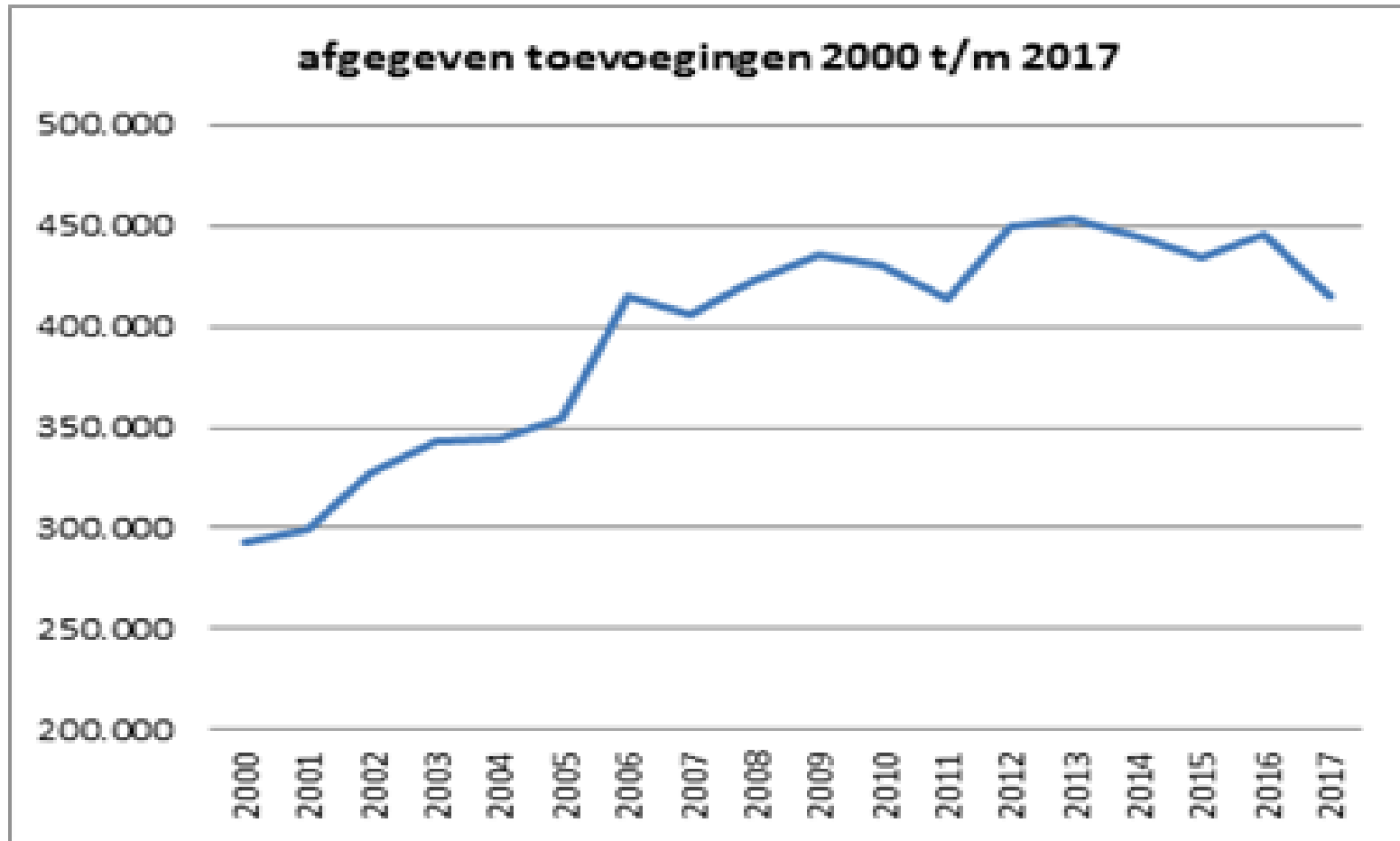
- 1. England & Wales 2489
- 2. Germany 533
- 3. Netherlands 485
- 4. France 351
- 5. Scotland 182
- 6. Ireland 97
- 7. Belgium 77
- 8. Finland 68
- 9. Poland 23

Per capita

- 1. England & Wales 39,37
- 2. Scotland 34,28
- 3. Netherlands 29,11
- 4. Ireland 21,18
- 5. Finland 12
- 6. Belgium 6,96
- 7. Germany 6,52
- 8. France 5,40
- 9. Poland 0,59

- Source: Hiil, Legal Aid in Europe: nine different ways to guarantee access to justice, 2014

Increase second line legal aid: grow of certificates lawyers and mediators



Legal aid budget under pressure

- Open-ended budget
- Growing expenses over decades, positive balance between budget and expenses only in the last two years
- Fees for lawyers and mediators were frozen in 2015
- Research done by committee Van der Meer in 2017 pointed out that lawyers fees are not high enough to guarantee a reasonable income

- Pressure on the turnover of lawfirms
- Side effects: search for more income
 - extra, needless, cases?
 - more 'complex' cases?
 - conflict divorce instead of agreed divorce?

- Fees should be raised, only question is: how?
- Present government does not want to spend extra money

New goal is innovation of the legal aid system: key values for change

- **Access to a solution is the key issue, not the automatic access to a lawyer.** The legal aid system must be equipped gradually to provide solutions which are both adequate and cost-effective.
- **People are directed towards other ways of (out of court) dispute settlement.** People who have alternative options to solve their legal problem are expected to make use of those options. Examples: ADR, legal aid insurance, consumer organizations.
- **Self-reliance is facilitated.** Rather than to solve other people's legal problems, the aim is to give them the tools to do it themselves, like the use of an internet platform to draw a divorce plan. People who must be considered as self-sufficient are eligible for state funded legal aid at a lower –lest costly- service level.

Innovation of the system

- Lawyer's assistance should only be applicable when special expertise is necessary and other solutions aren't obvious
- Government will stimulate the development of custom-made legal aid packages '*dismissal allowed?.nl*', '*separate.nl*'
- Other findings:
 - Better information should be made available, also about possible choices;
 - Solution of the client's problem should be the scope;
 - Need for a stronger first line with better qualified people, in cooperation with other social services;
 - More attention for multi-problem resolution (problem behind the problem, like debts, alcoholism etc.);
 - Need to improve people's self-sufficiency;
 - Focus on an overarching, societal goal for the entire process chain (holistic view), also including the judiciary (f.e. community courts).