

Legal Aid Reform in the Netherlands: An Update

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An earlier post reported on the volatile situation of legal aid reform in the Netherlands in which I discussed the plans by Dutch Minister of Legal Protection Sander Dekker for the overhaul of the Dutch system for subsidized legal aid. The Dutch Bar Association is now once again sounding the alarm about the social advocacy. Pro Deo lawyers are paid so little in legal aid that more and more of them consider quitting or already have thrown in the towel. Since 2015, a reported 350 lawyers have already quit and 70% of the remaining lawyers says they consider stopping if the situation doesn't change.

The general dean of the bar has therefore sent an urgent letter to Minister Dekker in which the Minister is being criticised for experimenting with new forms of justice administration and systemic changes to the legal aid scheme while effectively ignoring the acute problems that persist today.

The 2017 Van der Meer report already concluded that the Dutch system for subsidized legal aid, in which lawyers are awarded compensation based on a point-system, suffers from 'overdue maintenance' and that the actual time spent by lawyers no longer corresponds at all to the number of points awarded.

The reasons for this are diverse, but the report indicates that legislation and regulations have become much more complex, that those seeking justice are more demanding and that public administration is creating more legal conflicts than ever before. It also emphasized that the compensation for legal aid in the law of persons and family law is the most out of step. As concluded by Herman van der Meer, the president of the Court of Appeal in Amsterdam, and chair of the Committee, the award system still relies on standards of two decades ago: "If you look at family law, for example, it was quite common at the time of a divorce for the children and the house to go to the wife and for the husband to pay alimony. This is no longer the case these days. As a result, the judge, and therefore also the lawyer, has a lot more work to do with a case."

The critique voiced by the Bar Association today, although perhaps more pressing now, is not new. In the past year the Dutch Association Pro Deo Lawyers (VSAN) has repeatedly and openly criticized the Minister's reform plans, especially his sole focus on long-term goals while failing to address acute existing problems. According to VSAN, the new system in which there will be experimented with so-called legal assistance packages, will become an irresponsible system of trial and error, to the detriment of those seeking justice. The volatile situation has on several occasions lead to punctuality actions by pro deo lawyers, and again the bar is threatening such actions, or even general strikes if the Minister fails to address their concerns. In the words of the Dean: "If this call doesn't work, the minister is actually saying that he doesn't care."

It is clear that the complex portfolio of the overhaul of the Dutch legal aid system will not go by unnoticed and continues to cause resistance and critique.