



Users of subsidised legal aid

Insights into characteristics, problems and income position

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Context

In a well functioning state, under the rule of law, every citizen with a legal problem can appeal to legal assistance. Constitution and international treaties oblige the government to effect an arrangement which prevents citizens abandoning recourse to legal assistance on grounds of cost. However, government is free in the design and specification of that arrangement. The design of the Dutch legal aid scheme and the rules for granting subsidised legal assistance to those with a lesser ability to pay is codified in the Law on legal assistance (Wrb). On payment of a means-tested contribution, Wrb-entitled persons can appeal to subsidised assignment of a lawyer.

The Minister of Justice is responsible for the functioning of the legal establishment. To this end, the Minister must take cognizance both of the actual state of the affairs in the legal establishment and of possible alternative arrangements and consequences to be expected of any system changes. In order to be able to assess the impacts of possible scheme modifications, greater insight is needed into (potential) users of subsidised legal aid. For various scheme modifications, it is important to examine what can be said on the basis of (potential) users' characteristics about their income position and financial leeway now and in the future.

Research

The Research and Documentation Centre (WODC) has mapped the target group of civil assignments (i.e. non-automatically issued sub-

sidised assignments not related to criminal and asylum law) by the basis of characteristics such as labour participation, duration of any social benefits, income, gender, age, ethnic origin, and household composition. To this end, data on subsidised lawyer assignments originating from the Dutch Legal Aid Boards were for the first time coupled to data on characteristics of receivers of subsidised assignments obtained from Statistics Netherlands' Social Statistical Database.

The research dovetails with earlier WODC research. Following the work of Klijn c.s. (1996-1998), at the centre of which are access to subsidised legal assistance and access control through price policy, there are reports on multiple use of subsidised legal aid (e.g. Leertouwer, 2004) and legal aid systems in other countries (Van Zeeland & Barendrecht, 2003). In parallel, there is annual reporting on the state of affairs concerning the subsidised legal aid scheme by the Legal Aid Boards itself, in the context of the subsidised legal assistance monitor.

Box 1 contains the key findings concerning the Wrb-target group. Against the background of the income position and financial prospects of the current user target group, systemic changes which demand of them a larger contribution towards the costs of legal assistance will further reduce the already small financial leeway and can lead to the option of recourse to legal assistance being abandoned more often. Below, the most important facts and figures are presented by theme.

Box 1 Key findings

- The income position of users of subsidised legal assistance in civil matters is vulnerable.
- This vulnerability is chiefly a consequence of a weak labour market position, which coincides with the socio-demographic characteristics of the users.
- A relatively large proportion of these users are person receiving mainly social welfare assistance benefits and having a substantially lower average family income than workers (with relatively low incomes). This means that the financial leeway of the users is small.
- In view of the relatively small chance of outflow from social security and disability schemes to paid work, moreover, many have little prospect of improving their income and financial situation.
- On the whole, the characteristics of the current users of subsidised lawyer assignments indicate at this point that at least this group will only to a limited extent be able to contribute more to the costs of legal assistance.

Results

Through desk research, characteristics of persons and households were identified that indicate a particular risk in relation to income position and financial leeway. Next, the extent to which users of subsidised legal assistance show corresponding characteristics was considered. Finally, the relation between these user characteristics and the legal problems for which subsidised lawyer assignments were granted was explored.

Labor participation

Of the users of subsidised legal assistance some 41% is 'active', either as independent or as an employee. The labour participation among single person households is lower (32%) than that of multi-person households (44%).

An important indicator is that 59% of legal aid users are not active. One in twenty non-active persons has retired. More than half of the active persons are a recipient of disability or social security benefits.

There are relatively few active persons and among the non-active persons there are relatively many who are difficult to reintegrate into the workforce.

Sources of income

37% of the users of subsidised legal assistance have income from wages.

Almost two thirds of the 'inactives' have a benefit, which thereby forms the main source of income for another 37% of the legal assistance users. Especially disability and social welfare benefits are quit common (19% resp. 11%).

3% of legal aid users have income from a pension.

Duration of social benefits.

Almost two fifths of the legal aid recipients are not active and receive social benefits. Moreover, by far the largest part find themselves in that benefit situation for a longer period of time.

- 66% of the users of subsidised legal assistance with a disability benefit have received that benefit for 4 years or longer. Another 25% has received it for 1 to 4 years.
- 35% of the legal assistance users with a social security benefit have received this benefit for more than 4 years, whereas 37% received it for between 1 and 4 years.

Family income.

The average family income of Wrb-users amounts to net €12.367 per year. It turns out furthermore that – irrespective of which particular poverty line of the Netherlands Institute for Social Research is used – a substantial part of the users of subsidised legal assistance is below it. Under that boundary for example are 64% of couples with at least one child and 54% of single parent families with two children. Of all couples over 65 years of age, 53% are under the line. Nearly half of the couples of less than 65 years old with no children apparently also fall below the poverty line.

Gender and age

Although women slightly more often use subsidised legal aid than men (53%), the male/female distribution is nonetheless reasonably balanced.

Young people up to 25 years comprise 13% of the target group. Of the users of subsidised legal aid, 69% is between 25 and 50 years old. With 17%, legal assistance users between 35 and 40 years are the largest single group. The age group of 65 years and up is small (3%).

Origin

Of the users of subsidised legal assistance, 47% are of foreign or migrant origin. 11% are from Western countries and 35% from non-Western countries (Morocco 8%, Turkey 7%, Surinam 6%, Antilles and Aruba 2%, remaining 12%). Of the legal assistance users with foreign origins, 82% have been staying in the Netherlands for 5 years or more. A similar portion of foreign users is of the first generation. There are however considerable differences between subgroups. 53% of the legal aid users are of indigenous origin

Family composition

Almost a quarter (24%) of the users are single person households. Two-parent families with at least one child form 40% of Wrb-users and single-parent families with at least one child form 21%.

There are 53% families with an underage child and 44% families with a child younger than 13 years. Proportionally, single-parent families more often have children in the youngest and in the underage categories than two-parent families do.

Place of residence

Subsidised legal aid users are especially strongly represented in (very) highly urbanized areas (61%) and municipalities with 150,000 or more inhabitants (36%).

Type of legal assistance

Two areas of law account for 71% of all subsidized lawyer assignments in civil cases. Of such assignments, 41% concern person- and family law (notably divorce) and 30% concern administrative law (notably immigration, social security and welfare).

Characteristics of users of legal aid and the problems for which they get subsidised lawyer assignments are connected. In the area of person- and family law, groups that receive many assignments include women, working persons, and families with young children. In the area of administrative law men, inactive without income, benefit claimants and single person households more often receive assignments.

With 17% of subsidized lawyer assignments one can speak of plural appeal or multiple use during the four month research period. This concerns 10% of the users. Plural use occurs most frequently in the area of administrative law (39%) and least frequently in the area of person- and family law (15%).

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