

Summary

2006 Legal profession trend report Accessibility, continuity and quality of services

Lawyers give legal advice and represent clients in legal proceedings. The legal profession is legally regulated in the interest of the proper administration and dispensation of justice. The Dutch Minister of Justice is responsible for ensuring that there is a legal system that functions properly and safeguards the accessibility and required quality of the services provided by lawyers. In order to remain informed about how the system is functioning, the Ministry of Justice requires a biennial overview of the state of affairs and developments in respect of a) accessibility; b) continuity; and c) the quality of the services.

Issues being investigated

This report on the legal profession provides an overview of the state of affairs and the developments in respect of the following aspects of the services provided:

- accessibility (demand for services, supply of lawyers and rates charged);
- continuity (the inflow and mobility of students and trainees, the ratio of men to women and the disparity in age); and
- quality (quality assurance, complaints and disciplinary proceedings and professional ethics and client satisfaction).

Method of investigation

The following sources were used in conducting the investigation:

- information from various agencies (the Dutch Bar Association, Statistics Netherlands, the Disciplinary Boards and the Disciplinary Appeals Tribunal);
- existing investigations; and
- a review of the professional literature.

Results

Accessibility

- In respect of the supply of services we have ascertained that there are a number of developments that have already been underway for a number of decades: each year the number of lawyers and law firms has increased. However, we have seen a turn in the trend in respect of the increase in scale. If we assess this on the basis of the average number of lawyers at each firm, there has been a decrease since 2003.

- The demand for representation in legal proceedings increased between 2000 and 2005. It is not possible to determine whether that was also the case in respect of consultancy practice, as insufficient information is available in that respect.
- At the present time there is no lack of lawyers who are willing to undertake legal aid cases.
- The rates charged by lawyers vary depending on the firm, the lawyer, the client and the type of case. The standard rate increased by 13% between 2002 and 2005. Whether that increase differed in respect of the private and commercial markets is not known.
- An investigation among members of the public having legal problems has shown that if a lawyer charges high prices there is a decline in demand, but that decline is not significant. This is generally attributed to the limited freedom of choice that persons requiring legal services have, because in some cases legal proceedings and the need to engage a lawyer are unavoidable. It also appears that the influence of price on the decision whether or not to engage a lawyer has decreased over the years. The increased use of legal expenses insurance could explain that trend.

Continuity

- The inflow of trainees and new lawyers appears to be sufficient to safeguard the continuity of the provision of services.
- Through the years we have seen a steady increase in the percentage of female lawyers. In 2006, 38% of the bar consisted of women. Female lawyers tend to choose fields of law that are related to private persons more often than male lawyers and are more often interested in the law of persons, family law, employment law and public servants law. As a result female lawyers work on legal aid cases relatively more frequently than male lawyers.
- New developments include a) changes in the legal structure of firms: an increased number of firms are replacing the partnership structure with the a public limited liability company (nv) structure; and b) the emergence of legal professionals who have completed a higher professional education (*hbo*) rather than a university education (so called *hbo-juristen*). However, there are not yet enough legal professionals who have completed such training to ascertain what consequences that will have for lawyers and the distribution of work among law firms.

Quality

- Private persons are generally satisfied with the services provided by their lawyers. However, lawyers are considered to be expensive.
- Commercial clients are generally reasonably satisfied with the knowledge, skill and service provided by lawyers, although 25% are of the opinion that the price/quality ratio has decreased in recent years.

- There are no exact figures in respect of the number and types of complaints received by the deans, because they register complaints in different ways and do not distinguish between sorts of complaints. Roughly speaking it appears that somewhat more than 2,500 complaints are submitted each year. Between 2000 and 2005, the number of complaints that were forwarded to the Disciplinary Boards increased from 699 to 875. That increase is related to the growth of the bar and the demand for legal services. In 2005 approximately one-third of the complaints received by the deans were forwarded to the Disciplinary Boards. In approximately 40% of those cases, the Disciplinary Boards ruled that the complaint in question was well founded. In the last three years between 233 and 257 appeals were brought. The Appeals Tribunal upheld the Board's judgment in approximately one-half of those cases.
- Most complaints are submitted by private persons, usually in cases involving personal and emotional matters, which are therefore more susceptible to complaints, such as divorces, rent disputes, labour disputes and cases involving personal injury. More complaints are received in respect of lawyers from small firms than lawyers from large firms.
- In recent years, 71% of the firms were audited on the basis of the Dutch Bar Association's quality standards. However, slightly less than one-half of the one-man firms were *not* audited, although those firms are precisely the ones that are less likely to have a quality assurance system than the large firms. Those firms also have more private persons as clients, and it is more difficult for private persons to assess the quality of legal services themselves.
- The professional literature suggests various measures to better safeguard the quality of legal services, such as a) introducing a bar-wide quality assurance system; b) setting higher standards for professional training and continuing education; c) modifying the disciplinary rules, among other things by expanding the disciplinary measures and creating a single contact point for disciplinary matters and complaints; and d) changing the regulatory structure of the Dutch Bar Association so that other interested parties, such as consumers and companies, have a voice in the rules governing the legal profession.