

COUNTRY REPORT 2017 THE NETHERLANDS BAR

Legal Aid:

For several years, there has been an ongoing discussion about the Dutch legal aid system. The discussion focuses on the scheme itself and specifically the remuneration for lawyers who provide legal aid. In 2017 the Minister for Justice and Security asked an independent Commission, chaired by Mr. Van der Meer, a member of the judiciary, to evaluate the remuneration for lawyers who provide legal aid under the scheme. The Commission concluded that the legal aid budget is insufficient, and has been for years. A structural budgetary increase is necessary to ensure that those in need have access to legal aid and to provide a fair remuneration for lawyers working under the scheme. However, the Minister for Justice and Security has indicated that an increase of the budget is not possible and has invited all relevant stakeholders (including the Netherlands Bar) to discuss alternative solutions. The outcome of these discussions is expected later this year. To emphasize the concerns of the profession more than 300 lawyers held a protest near the parliament buildings on 2 February 2018.



Revision of the Code of Conduct:

The Netherlands Bar has nearly finished a two-year project concerning a revision of its Code of Conduct. Traditionally, the Bar has been in charge, as an important aspect of self-regulation, of drafting and promoting practical rules of proper conduct for the lawyers in the Netherlands. The last time the Code of Conduct was revised was in 1992. Societal changes, changes in lawyers' legislation and in legal practice gave cause to an integral revision. In the beginning of 2016, the general council of the Netherlands Bar requested a committee of eight lawyers to scrutinize the existing Code and to draft a proposal for a new and revised Code. The committee's draft proposal was presented in the second half of 2017 and has then been part of an internet consultation. The final proposal has been discussed on 30 January in the Board of Representatives. The new Code is expected to be published shortly.

Vocational Training:

The Netherlands Bar is currently researching options to further improve the vocational training for lawyers, to ensure longer term sustainability in light of (i.a.) growing diversity within the bar, internationalization, the need to specialize, and digitalization. In this context, the Netherlands Bar has also taken into account experiences and best practices of vocational trainings of other professionals, like judges.

In 2017 a public consultation was published, and for 2018 the focus is on producing a draft proposal for a sustainable vocational training. Within the new training scheme the focus will be on more practical training on lawyers skills, stronger patronage, closer cooperation between the training institution and law firms, stronger emphasis on ethics, and more integration between the vocational training (which, including internship, lasts 3 years) and the continuous training obligations for lawyers. Specialization is an important instrument to further improve the quality of profession. It is expected that the improved vocational training will be available to trainee lawyers in 2020.

Quality Management:

The Dutch Act on Advocates delegates the responsibility for improving the quality of lawyers' services to the general council of the Netherlands Bar. The general council has announced that developing an policy on quality management is one of its priorities.

In 2017, a bye law on quality assessment was adopted. The bye law requires lawyers to take part in a form of structured feedback (interview, peer review or inter collegial meetings). Other (proposed) measures to improve the quality of lawyers' services include (i) the introduction of an experts' register which will make it easier for clients to assess the fields of expertise of a lawyer and to verify that the lawyer has fulfilled his continuous training obligations, and (ii) the introduction of requirements to promote specialization.

Representation in divorce proceedings:

At present representation in divorce proceedings is a reserved activity for lawyers. However, there is a debate going on about abolishing mandatory representation in divorce proceedings which would mean that it is no longer necessary to be represented by a lawyer when filing for divorce. The Netherlands Bar is of the opinion that representation by lawyers in divorce proceedings is essential and should not be abolished.