



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

EUROPEAN COMMISSION
FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

PILOT-SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS

SCHEME FOR EVALUATING JUDICIAL SYSTEMS

Country: **The Netherlands**
.....

Contact Name: **Mr. Pim Albers**
.....

I. General information

1. Number of inhabitants

Number: 16.000.000
.....
Year of reference: 2002
.....
Source:
Central Bureau of Statistics (*Centraal Bureau voor de Statistiek*)
.....

2. Total annual State/~~regional~~ public budget

Budget: € 125. 688. 000. 000
.....
Year of reference: 2002
.....
Source:
Ministry of Finance

3. Average gross annual salary

Salary: € 22. 800 (average gross yearly *income*, not salary)
.....
Year of reference: 2000
.....
Source :
Central Bureau of Statistics (*Centraal Bureau voor de Statistiek*)
.....

II. Access to Justice and to all courts

II. A. Legal aid/cost of justice

4. Annual public budget spent on legal aid

Annual budget: € 202. 627. 400

Year : 2002

Source :

Ministry of Justice, budget 2004 (budget 2004 specifies how much was *actually* spent in 2002, not budgeted)

5. If possible, specify

- the annual public budget spent on legal aid in criminal cases

Annual budget: € 93. 514. 400

Year : 2002

Source :

Ministry of Justice, budget 2004

- annual public budget spent on legal aid in other court cases

Annual budget: € 109. 113. 00

Year : 2002

Source :

Ministry of Justice, budget 2004

6. Total number of legal aid cases (in a year)

Number of cases: 328. 206 cases

Year : 2002

Source :

Council for legal aid, 2003

7. If possible, specify:

- the total number of legal aid cases in criminal matters (in a year)

Number of cases: 116. 800 assignments

Year : 2002

Source :

Council for legal aid, 2003

- the total number of legal aid cases in other court cases (in a year)

Number of cases: 211. 406 (civil cases and legal advice) Year : 2002

Source :

Council for legal aid, 2003

8. Does your country have an income and asset test for granting legal aid?

Yes : There is an income and asset test

9. If yes, what is the maximum income level for granting legal aid?

Income level: € 1. 344 monthly income for single persons and € 1. 920 monthly income for other households

Year : 2002

10. Is it possible to refuse legal aid for lack of the merit of the case?
(eg. for frivolous or vexatious actions, or cases without merit)

Yes

Legal aid will not be given in cases worth less than € 180 . Subsidised legal aid is also excluded where:

- the application is manifestly unfounded;
- the costs of legal aid are out of proportion to the value of the case;
- the application concerns a criminal case in which only a low penalty is likely to be incurred;
- the application is made by a corporate body which is formed for the purposes of bringing the court action;
- the case concerns the practice of an occupation or business, unless the continued ability to practise depends on the outcome of the case;
- the case is to be brought in an international court that has its own legal aid scheme; or
- the case concerns an interest which the applicant can defend alone without legal representation.

If yes, is the decision taken by : - a body external to the court
(please indicate the right answer)

What factors are taken into account ?

Factors:

- Legal aid will not be given in cases worth less than € 180 .

Subsidised legal aid is also excluded where:

- the application is manifestly unfounded;
- the costs of legal aid are out of proportion to the value of the case;
- the application concerns a criminal case in which only a low penalty is likely to be incurred;
- the application is made by a corporate body which is formed for the purposes of bringing the court action;
- the case concerns the practice of an occupation or business, unless the continued ability to practise depends on the outcome of the case;
- the case is to be brought in an international court that has its own legal aid scheme; or
- the case concerns an interest which the applicant can defend alone without legal representation.

11. In general do litigants have to pay a court tax or fee to start a proceeding at a general jurisdiction court?

Yes: Only in civil and administrative cases
.....

12. Does your country have a private system of legal expenses insurance for individuals?

Yes: Policies sold by private insurance companies
.....

13. Do judicial decisions have an impact on who bears legal costs which are paid by the parties during the procedure?

Yes: The court can sentence one party to cover the legal costs of the other party.
.....

If yes, is this true for : - criminal cases ? No
- other than criminal cases? Yes, for civil and administrative cases

14. In your country, have studies been carried out on the costs of cases brought to courts concerning: - users? No
- the State? Yes

If yes, please indicate the references of these studies published in the year 2002 or 2003:
(instance) (Title) (Type of courts or costs reported on):

For the State: Council for the Judiciary annual report All 19 first instance and 5 of the 7 appellate courts. Not the Supreme Court

.....
For the State: Andersson Elffers Felix Met recht gefinancierd. Ontwikkelingsgericht onderzoek financiering rechtspraak (Utrecht, January 2003)

II. B. Users of the courts and victims

15. Are there official internet sites/portals (eg. Ministry of justice, etc..) through which the general public may have free access to:

- legal texts (eg. codes, laws, regulations, etc..)? Yes
internet address: <http://wetten.overheid.nl/>
.....

- to the case-law of the higher courts? Yes (from 2000 onwards)
internet address: <http://www.rechtspraak.nl>
.....

- to other documents (for examples legal forms)? No
internet address:

If yes, please give the internet address

16. Is there a public and free-of-charge specific information system to inform and to help victims of crimes? Yes

Comments: the Public Prosecutor's office runs an internet website for victims of crimes, who want to be financially compensated for damages caused by the offender. The police also have instructions to point out this service to victims of crime.

17. Is there a public, free of charge and personalised specific information system, managed by the police or the justice system, on the follow up given to complaints by victims of crime? No

Comments:

18. Does your country have a public compensation fund to compensate financially victims of crimes? Yes

Comments: There is a national fund for the compensation of damages which are the result of crime, installed in 1976. Only damages caused by death and injury can be compensated to a maximum of € 22.700 for material damage and € 2.723 for immaterial damage (figures 2004). Average figures for compensation are € 2.713 , of which € 908 for material and € 1.815 for immaterial damage.

Source: <http://www.schadefonds.nl>

19. Does your country have users' or legal professionals' (judges, lawyers, officials, etc.) surveys to measure public trust and satisfaction with the services delivered by the judiciary? Yes

If yes, are these surveys

- at national level Yes, a there is a regular national survey that contains indicators of national trust and satisfaction with the judiciary .
- at court level Yes , regular standardised customer satisfaction surveys according to the INK-model for quality management.

20. Is there a national or local procedure for making complaints about the performance of the judiciary (eg. through an ombudsman)? Yes

Please specify:

- at court level/internal procedure Yes : In 2002, all courts have introduced a procedure to deal with complaints regarding the behaviour of the court or persons working for the court.
- at court level/external procedure No
- at national level/internal procedure Yes , the Supreme Court has a special chamber to deal with complaints concerning judges. This chamber functions as an ombudsman, but can also take disciplinary actions against judges.
- at national level/external procedure No

21. As a general rule, do the institutions which receive such complaints have an obligation to respond and/or to deal with the complaint within a certain time limit?

- time limit to respond: Yes, courts have to send a notification as soon as the complaint has been received

- time limit for dealing with the complaint: Yes 6 or 10 weeks, according to the standard complaints procedure

III. Functioning of courts and efficiency of justice

III. A. Functioning

22. Total number of courts

Number of courts: 28 courts
.....

23. Number of general jurisdiction first instance courts

Number of courts: 19 courts
.....

Note: there are 61 sub offices of the main seats of the 19 district courts in the Netherlands.

24. Number of specialised first instance courts

Please specify the different areas of specialisation

(area of specialisation)

(number of courts)

Environmental issues / planning

1 Council of State / (*Afdeling Bestuursrechtspraak RuS*)
.....

Acts of Industrial Organisations

1 Council of appeal for the Business Community (*College van Beroep voor het Bedrijfsleven*)
.....

Note: Other courts also have chambers for dealing with specific areas of the law, such as the military law, traffic violations, etc. These courts have territorial jurisdiction, meaning that all cases concerning these specific laws can only be handled by the court in which the special chamber resides. The court of Rotterdam, for example, has a special chamber for dealing with all cases in the Netherlands concerning telecommunication and competition.

25. Number of professional judges sitting in courts

(present the information in full time equivalent and for permanent posts)

Number of judges: 1.809 fte
.....

Year : 2002
.....

Source :

Council for the Judiciary, annual report 2002
.....

26. Number of non-professional judges sitting in courts

(present the information in full time equivalent and for permanent posts)

Number of judges: fte
.....

Year :
.....

Source :

.....

- the person administratively responsible for the court No
- other:

33. Which institution is responsible for arranging and scheduling the court hearings/sessions?

- in criminal cases: public prosecutor

Note: formally the public prosecutor, but in practice a mixed combination between the administration of the courts and the public prosecutor

- in other than criminal cases : the court

III. B. Efficiency

34. Total number of criminal cases received by the public prosecutor (in a year)

Number of cases: 251. 681 criminal cases, Year : 2002
 466. 097 including misdemeanours

Source : Public prosecutor's office

35. Total number of criminal cases dropped by the public prosecutor (in a year)

Number of cases: 27. 602 criminal cases, Year : 2002
 57. 985 including misdemeanours

Source : Public prosecutor's office

Please indicate also, out of this total, those dropped as the offender has not been identified

Number of cases: not applicable Year :

Source :

36. Total number of criminal cases which are concluded by a sanction/measure, imposed or negotiated by the public prosecutor (in a year)

Number of cases: 70. 693 criminal cases, Year : 2002
 113. 296 including misdemeanours

Source : Public prosecutor's office

37. Total number of criminal cases charged by the public prosecutor before the courts (in a year)

Number of cases: 122. 949 criminal cases, Year : 2002
 248.949 including misdemeanours

Source : Public prosecutor's office

38. Total number of incoming criminal cases in the courts involving robbery cases (in a year)

Number of cases: 5.173 Year : 2002

Source : Public prosecutor's office

39. Total number of judicial decisions, involving robbery (in a year)

Number of cases: 3.780 Year : 2001

Source : Public prosecutor's office

Please indicate, if possible:

Number of convicted persons: 3.621 % of convicted persons:

Number of acquitted persons: 121 % of acquitted persons:

40. Percentage of decisions involving robbery subject to an appeal to a higher court (in a year)

Percentage of decisions: figures not available Year :

Percentage of decisions: Year :

Source :

41. Total number of incoming criminal cases in the courts, involving intentional homicide (in a year)

Number of cases: 196 Year : 2002

Source : Public prosecutor's office

42. Total number of judicial decisions, involving intentional homicide (in a year)

Number of decisions: 201 Year : 2002

Source : Public prosecutor's office

Note: this is the number of judicial decisions in 2002, which also includes cases that were brought before the court before 2002

Please indicate also if possible:

Number of convicted persons: 182 % of convicted persons: 91%

Number of acquitted persons: 17 % of acquitted persons: 8%

43. Percentage of decisions concerning intentional homicide subject to an appeal to a higher court (in a year)

Percentage of decisions: 59% Year : 2002

Source : Public prosecutor's office

44. Total number of incoming civil and administrative cases in the courts (in a year)

Number of cases: 422.600 Year : 2002

Source :
Council for the Judiciary / Central Bureau for Statistics

Note: cases in first-instance courts. Does not include asylum- and other immigration cases

45. Total number of judicial decisions in civil and administrative matters (in a year)

Number of decisions: 326.200 Year : 2002

Source :
Council for the Judiciary / Central Bureau for Statistics

Note: decisions in first-instance courts. Does not include asylum- and other immigration cases

46. Percentage of decisions concerning civil and administrative matters subject to an appeal to a higher court (in a year)

Percentage of decisions: 6,6 % Year : 2002

Source : Central Bureau for Statistics

47. Total number of incoming divorce cases in the courts (in a year)

Number of cases: 35.153 cases total, of which appr 17.500 litigious Year : 2002

Source : Council for the Judiciary

48. Total number of judicial decisions in divorce cases (in a year)

Number of decisions: 34.245 decisions Year : 2002

Source : Council for the Judiciary

49. Percentage of decisions concerning divorce cases subject to an appeal to a higher court (in a year)

Percentage of decisions: 4,7 percent
Source : Council for the Judiciary

Year : 2002

50. Total number of incoming employment dismissal cases in the courts (in a year)

Number of cases: 68.331

Year :
.....

Source : Council for the Judiciary

51. Total number of judicial decisions of employment dismissal cases (in a year)

Number of decisions: 65.537
.....

Year : 2002

Source : Council for the Judiciary

52. Percentage of decisions concerning employment dismissal cases subject to an appeal to a higher court (in a year)

Percentage of decisions: There is no appeal against the decision of the first-instance court in dismissal cases.

Year :
.....

Source :

IV. Use of Information Technology in the court

53. Annual IT budget allocated to the courts (if possible in Euros)

Annual budget: € 32.627.000
.....

Year : 2002
.....

Source : Council for the Judiciary, annual report 2002 (purchases, materiel and exploitation)
.....

54. In general, do the courts in your country have computer facilities?

- for judges Yes
- for non-judges court staff Yes

55. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary ?

Yes, two institutions

If yes, please specify the name and the address of this institution

63. Average length, in days, of robbery cases from the formal beginning of the prosecution until the appellate judgment

Average length: appr. 588 days days Year : 2002
.....

Source : Study by Berenschot Consultancy (2002) : *Naar redelijke doorlooptijden in de strafrechtketen.*

Note: the Prosecutor' General's Office will be able to report this information by 2005

64. Average length, in days, of divorce cases from the deposit of the complaint until the first instance judgment

Average length: 104 days Year : 2002
.....

Source : Council for the Judiciary, annual report 2002
.....

Note: unclear if this number is measured from the moment of deposit of the complaint, or not.

65. Average length, in days, of divorce cases from the deposit of the complaint until the appellate judgment

Average length: days Year :
.....

Source :
Data not available

66. Average length, in days, of employment dismissal cases from the deposit of the complaint until the first instance judgment

Average length: days Year :
.....

Source :
Data not available

67. Average length, in days, of employment dismissal cases from the deposit of the complaint until the appellate judgment

Average length: days Year :
.....

Source :
Data not available

68. Do you, on a regular basis, measure the size of backlog cases in the courts?

Yes

69. Do you have a way of analysing queuing time during court procedures?

No

80. Number of professional public prosecutors (in full time equivalent)

Number of prosecutors: 588 Year : 2002??
.....

Source :
Public prosecutor's office

81. Gross annual salary of a public prosecutor at the beginning of his/her career

Annual salary : Appr. € 79. 406 Year : 2002
.....

Source :
Law on remuneration for the judiciary

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court

Annual salary : Appr. € 108. 890 Year : 2002
.....

Source :
Law on remuneration for the judiciary

83. Can public prosecutors combine their work with other professions? Yes

If yes, please specify: Professions must be made public

84. Are public prosecutors recruited and nominated by an independent institution? Yes

(If yes), who are represented in this institution:

- the public prosecutors ? No
- other stakeholders outside? No
- a mixture of the two categories referred to above? Yes

Is the process of selection and nomination of public prosecutors done according to pre-established procedures? Yes

85. Is there a system of induction and continuation training for public prosecutors?

Yes, but not compulsory

What is the average percentage of prosecutors who have participated in continuation training each year?

Percentage of prosecutors: data not available Year :
.....

Source : SSR (Training Institute for the Judiciary), see question 74

86. Is there a system of supervision and control on public prosecutors? No

If yes, please specify:

Note: the board of attorney generals are responsible for the supervision of the public prosecution agencies, but there is no system.

87. Annual number of disciplinary proceedings against public prosecutors

Number of proceedings: Year :

Source : Figures not public

88. Annual number of sanctions against public prosecutors

Number of sanctions: Year :

Source : figures not public

VIII. Lawyers

89. Number of lawyers practising in your country

Number of lawyers: 12. 290 Year : 2002

Source : Annual report 2002, national bar association

90. Is there a national bar association? Yes

91. Have quality standards been formulated for lawyers? Yes

If yes, who is responsible for formulating these quality standards?

- the bar association Yes

- the legislature No

- other No

92. Can disciplinary proceedings be instituted against lawyers? Yes

93. Annual number of disciplinary proceedings against lawyers

Number of proceedings: 518 Year :
.....
Source : Netherlands Bar Association

94. Annual number of sanctions against lawyers

Number of sanctions: 188 Year :
.....
Source : Netherlands Bar Association

Note: number of sanctions may increase, as not there are still proceedings

95. Is it possible to complain about the performance of lawyers? Yes

If yes, please specify:

Complaints can be sent to the Bar Association, the lawyer(s) in question must also be notified. Large firms also have their own internal complaints procedures.

96. What is the amount paid to a lawyer by the State in respect of legal aid for a first instance divorce case?

Amount: € 904 Year : 2002
.....
Source : Council for legal aid

IX. Mediators and mediation proceedings

97. Number of accredited or registered mediators

Number of mediators: 3.980 Year : 2002
.....

Source : Mediation Institute Netherlands, which is an independent institute that has been appointed by the ministry of justice to guarantee the quality of mediators through certification. Not all mediations in the Netherlands are registered by this institute.
.....

98. How much public budget is devoted to mediation?

Amount: € 5.274.000 Year : 2002
.....
Source : Budget 2003, Ministry of Justice.

Note: budget covers all Alternative Resolution (ADR), including mediation
.....

99. Number of incoming mediation cases (in a year)

Number of cases: 3. 717 / 1. 822 Year : 2002 / 2003

Source : Mediation Institute Netherlands

Note: not all mediations in the Netherlands are reported to the Mediation Institute and some are reported a long time after they have been closed. Mediators are not required to report mediations to the Institute. This explains the variation in the figures.

100. Number of cases solved through mediation (in a year)

Number of cases: 1. 283 cases Year : 2003

Source : Mediation Institute Netherlands

If possible, please specify:

- number of criminal cases solved through mediation: not applicable. Criminal cases are exempt from mediation in the Netherlands

- number of cases other than criminal solved through mediation: 1. 283 (in 2003)

101. In which areas of law is mediation most practised and successful in your country?

- in criminal cases? No

- in other than criminal cases? Yes

Year : 2003 Source : Mediation Institute Netherlands

X. Enforcement agents and execution of court decisions

102. Number and types of enforcement agents

- in criminal cases:

(Type)	(Number)	(Year)	(Source)
patrol officers in the police force	36. 766 fte (47. 964 fte	2002	National Police Institute/ Ministry of internal affairs
.....	including administrative
.....	& technical personnel)
.....	2002

- in other than criminal cases:

Bailiffs	350		Royal Dutch Organization of Court Bailiffs
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Added Bailiffs 281
.....
.....

103. Is there an institution to supervise or control the activities of enforcement agents?

Yes

If yes, please specify: National Department of Criminal investigation (*Rijksrecherche*) is responsible for investigating police and government officials
.....

For Bailiffs: the Royal Dutch Organization of Court Bailiffs, which issues codes of conduct.

104. Annual number of disciplinary proceedings against enforcement agents

Number of proceedings: 1.725 police officers investigated Year : 1999-2000
19 cases against Bailiffs Year: 2002
.....

Source : Monitor for internal police investigations 1999-2000, Free University of Amsterdam (*Vrije Universiteit Amsterdam*)

For Bailiffs: the Royal Dutch Organization of Court Bailiffs
Note: one case sometimes concerns more than one bailiff.

105. Annual number of sanctioned enforcements agents

Number of agents: 735 police officers Year : 1999-2000
8 cases (one case sometimes concerns more than one bailiff)
.....

Source : Monitor for internal police investigations 1999-2000, Free University of Amsterdam (*Vrije Universiteit Amsterdam*)
.....

For Bailiffs: the Royal Dutch Organization of Court Bailiffs

106. Is it possible to file a complaint against an enforcement agent? Yes

If yes, please specify: The police have an internal complaints procedure. Every police district is responsible for its own procedure. If the outcome of the internal procedure is not satisfactory, there still is an external procedure via the National Ombudsman
.....

Bailiffs: the court of Amsterdam has a special disciplinary chamber for dealing with complaints against bailiffs

107. Does the court play a role in the execution of court decisions? No

If yes, please specify:
.....

108. Are the courts competent to decide against public authorities? Yes

Are the courts involved in executing decisions against public authorities? No