

Jan Moerland  
3 June 2014

# Legal Protection Insurance in the Netherlands

And its vital role in Access to Justice



DAS.Opgelost

# The Netherlands

- 17 million inhabitants
- 17.000 lawyers who are member of the bar (“advocates”)
- Half of private households have Legal Protection Insurance (LPI)
- One third of Businesses (Small and Medium Enterprises) have LPI
  - But I will concentrate on private persons
- LPI is very important for access to justice in the Netherlands

# Legal environment in the Netherlands

- **Positive**
- Procesmonopoly is limited: for many court proceedings you do not need an advocate
- Various types of legal services providers
- Out of court settlements are preferred (non-litigious culture)
- **Negative**
- Relatively few advocates
- High prices of advocates
- Court fees can be high
- Very limited reimbursement of legal costs if you win court proceedings

# Access to Justice in the Netherlands

## - options for private persons-

- Basic provision: State Legal Aid
  - 36% of population (lowest incomes) has a right on State Legal Aid in theory
- Legal Protection Insurance
  - 54% of households
- Trade Unions
  - 10% of population is a member
- Social / welfare organisations
- Advocates
- Other Legal advisors

# Legal Problems Identified

- In a period of 5 years, 60% of private persons have experienced a legal problem of some kind
  - 26 % concerning products and services of companies
  - 22 % labour law
  - 13% financial
  - 13 % property
- Opponents
  - Private persons 19%
  - Company / organization 56%
  - Government / authorities 12%

# Legal Problems: what action?

- Only 6 % does not take any action
- 42% tries to solve the problem on his own
- 52 % seeks professional legal help

# Legal Help: “first aid”

- When you have a legal problem and seek professional advice, what is the **first party** to turn to?
- 22 % goes directly to their **Legal Protection Insurer**
- 22% asks their **Trade Union** for help
  - Trade Union only give help in Labour Law cases and Social security
- 12 % goes directly to an **Advocate**
- 9 % **State Legal Aid**

# Legal Help: handling the case

- Estimated share of legal help (contact with legal opponent and going to court)
- Legal Protection Insurer 40%
- Advocates 35%
- Trade Unions 20%

# State Legal Aid

- 450.000 cases handled in 2012
- Costs 484 million euro in 2012
- First legal advice given by State Legal Offices
- Cases are then given to Advocates
  - 45 % of Advocates are willing to handle cases for State Legal Aid
- 34 % Criminal Law
- 24 % Family Law (divorces)
- Costs are rising rapidly: Ministry of Justice propagates severe cost cutting

# Advocates

- One advocate for every 1.000 persons
- No regulation of tariffs: free market mechanism
- High prices (160 – 400 euro per hour) and almost no fixed fees (high uncertainty of total costs):
- Except in State Legal Aid (about 106 euro per hour)
- Public image of advocates: Expertise and dedication, but high and unpredictable costs
- Most of them have a general practice (no strict specialisation)
- 75% of advocates work alone or in small office (5 or less)
- 52 % of advocates work alone

# Legal Protection Insurance

- Premium volume 683 million euro in 2012
- 411.000 claims handled in 2013
- Of which appr. 30.000 are given to advocates
- **So: about 93 % of all claims are FULLY handled by inhouse LPI lawyers**
- 5 Legal Services Organizations provide 95% of legal help on basis of LPI
- 27% Labour claims and social security
- 24% Car accidents

# Consumer protection in case of inhouse LPI lawyer

- Claimshandling is only allowed to special Legal Services Organizations, “at arms length” of other insurance branches (Dutch law is stricter than EU Directive)
- Second opinion by advocate of your own choice without costs if you disagree with casehandling of your inhouse LPI lawyer
- Free choice of lawyer in legal or administrative proceedings
- Independent institute which handles complaints of consumers on LPI / inhouse LPI lawyers

# DAS Netherlands LPI

- Marketleader (30%)
- Over 600 inhouse LPI lawyers employed, who handle cases for our insured clients
- In 8 offices throughout the Netherlands
- 150.000 legal advices by telephone/mail annually
- 105.000 legal claims (dossiers) handled in 2013
- 30% of claims: court or administrative proceedings (free choice of lawyer)
  - Of which 3,5 % of total claims: procesmonopoly and therefore always given to advocates (free choice of lawyer)
- 70% of claims: out of court settlement

# DAS Netherlands LPI

- **Type of claims handled by DAS**
- 26 % Labour law and social security
- 25% Car accidents
- 24% Contract law (consumers, financial institutions, companies)
- 12% Rent and property
- 10 % Health
- 3% Government and authorities

# DAS Netherlands LPI

- In house lawyer of DAS are very specialized
- That makes them good, experienced and efficient
- Due to the situation on Dutch labour market for legal experts, they are paid a salary that is relatively high
- Our organisation and internal processing benefits from our large scale
- Costs per hour are lower then that of advocates
- And no VAT and no profit margin on hourly rates of inhouse lawyers

# DAS Netherlands LPI

- DAS permanently monitors client satisfaction on the performance of its inhouse lawyers
- 70 % of customers rate inhouse lawyers “8” or higher on a scale from 1-10 (*10 = best*)
- 80% recommends DAS inhouse lawyers
- Only 18 % of clients experiences that the case was completely lost (average in the Netherlands is 21%)

# Client satisfaction on different types of legal expert

- **“Would you use this expert again?”**

*Scale 1- 5 (5 = best)*

- Inhouse lawyer LP Insurer 4,02
- Advocate 4,00
- Trade Union lawyer 3,93
- State Legal Aid advisor 3,69
- Other legal advisors 3,55

# Vital role for LPI in access to justice in the Netherlands

- Large part of private persons and small businesses depend on LPI for their access to justice
- With LPI you have no surprises on legal costs
- Guarantees if quality is not delivered

# Vital role for LPI in access to justice in the Netherlands

- Efficient and effective legal help with inhouse lawyers
  - Cost efficient: relatively low costs of highly specialized inhouse lawyers
  - Effective: fast solution out of court if possible, court proceedings when necessary
- Even with a modest income you have
  - Access to justice in relatively small claims (for which nobody would want to pay an expensive lawyer)
  - Access to expensive lawyers and/or expensive court proceedings

# LPI and State Legal Aid

- LPI helps fill the gaps of State Legal Aid
  - LPI provides most legal help in types of cases that State Legal Aid does not provide or only limited
    - e.g. Only 4% Labour cases in State Legal Aid; 26 % by DAS
  - because of cost cutting, this will become more important
- LPI helps keep the costs of Legal State Aid low
  - 30% of insured could also benefit from State Legal Aid, but are helped by LPI

