

Pro Bono Practices and Opportunities in the Netherlands¹

I. Introduction

The Dutch Constitution (*Grondwet*) and the European Convention on Human Rights provide for a right to access to justice and legal representation. As a result, people in the Netherlands with limited means seeking legal advice are generally well-represented by a comprehensive system of government-subsidized legal services. As a consequence true pro bono work in the Netherlands has been very limited and is less focused on indigents and more on interest groups and foundations serving broader social needs and advocating for human rights. These foundations have a substantial need for pro bono legal services, since they are not entitled to receive government-subsidized legal aid.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>Every <i>advocaat</i> practicing in the Netherlands is a member of the Dutch Bar Association (<i>Nederlandse Orde van Advocaten</i>) and is subject to the Dutch Act on Lawyers (<i>Advocatenwet</i>)², the administrative decrees and other rules, including the general rules regulating lawyer conduct (<i>Gedragsregels</i>)³, issued by the Dutch Bar Association. Lawyers who do not comply with these rules are subject to disciplinary proceedings and can ultimately be disbarred.</p> <p>The Dutch Act on Lawyers, its implementing regulations, and the Dutch Bar Association provide rules on the practice of an <i>advocaat</i>. These regulations include rules on education and entry in the profession, as well as professional rules of conduct.</p> <p>Any student who completes a legal education is a <i>jurist</i>. A <i>jurist</i> is not allowed to practice in court, but is allowed to give legal advice. A <i>jurist</i> is not a member of the Bar nor subject to codes of conducts or other requirements. In this overview the term lawyer only refers to the Dutch term <i>advocaat</i> and not to a <i>jurist</i>.</p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>After completing a three-year Bachelor of Laws and a one-year Master of Laws (during which specific courses need to be followed to receive <i>civiel effect</i>) professional training (<i>Beroepsopleiding</i>) needs to be completed in order to become a lawyer. This professional training takes approximately three years and consists of</p>

¹ This chapter was drafted with the support of Willianne van Zandwijk and Mirjam Vos of NautaDutilh.

² See <http://regelgeving.advocatenorde.nl/content/act-advocates> (last visited on May 1, 2019).

³ See <http://regelgeving.advocatenorde.nl/content/code-conduct-european-lawyers> (last visited on May 1, 2019).

		coursework and an apprenticeship under a supervising senior lawyer. ⁴
(b)	Pro Bono Practice and Culture	
	1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.	The Dutch regulatory regime does not generally allow lawyers to provide their services based on a contingency fee. ⁵ Lawyers are required to charge a reasonable fee. However, lawyers in the Netherlands are permitted to provide legal services completely free of charge (i.e., pro bono legal services). There are no other rules that specifically regulate the provision of pro bono legal services in the Netherlands.
	2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?	Dutch lawyers have no legal duty to provide pro bono legal services, given the governmental provision of extensive legal aid. Working with the subsidized legal aid program (pro deo) or providing services for free (pro bono) is a decision left entirely to the individual lawyer.
	3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?	Aspiring lawyers in the Netherlands are not required to complete a minimum number of hours of pro bono legal services in order to become an lawyer.
	4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?	The nature of the pro bono work in the Netherlands is focused on interest groups and foundations serving public or social needs and human rights. These foundations are not entitled to receive government-subsidized legal aid and therefore have a substantial need for pro bono legal services.
	5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?	Only a few large, commercial law firms in the Netherlands provide pro bono legal services. Large law firms that provide pro bono legal services to organizations often require that the case holds demonstrable social significance or sets a legal precedent. Also, there are many non-profit organizations in the Netherlands that provide legal advice at no cost. These foundations are commonly known as

⁴ These requirements follow from the Advocatenwet (See <http://regelgeving.advocatenorde.nl/content/act-advocates> (last visited on May 1, 2019)) and the Lawyer Decree_(*Verordening op de advocatuur*) (See <http://regelgeving.advocatenorde.nl/content/verordening-op-de-advocatuur> (last visited on May 1, 2019)).

⁵ See article 6.24 of the Lawyer Decree_(*Verordening op de advocatuur*).

		<i>Rechtswinkels</i> (Law Stores). Staff usually consists of law students and other volunteers, and they can exist as separate foundations or be part of a university.
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	Dutch lawyers do not require a license to provide pro bono legal services, this includes a <i>jurist</i> .
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	The rules on foreign lawyers practicing in the Netherlands are fairly complex, and differ for EU and non-EU citizens. In practice, there are no reports of foreign lawyers practicing pro bono in the Netherlands. While pro bono projects may be multi-jurisdictional, Dutch lawyers normally act as local counsel and deal with the Dutch elements of a project.
	3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?	Lawyers are obliged to be insured against civil legal liability arising out of their legal practice to an extent to which is reasonable having regard to the nature and extent of the risks incurred by their professional activities. ⁶ Generally, professional insurance covers liability arising out of pro bono work. There are no extra insurance requirements for pro bono lawyers. In general, Dutch law firms ordinarily limit liability in their engagement letters or terms and conditions to the amount of fees paid (which is zero for pro bono engagements).
	4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?	There are no rules in the Netherlands that prohibit advertising of pro bono successes or soliciting new pro bono clients.
	5. Do lawyers receive any "Continuing Legal Education" or equivalent credit for pro bono hours worked?	Dutch lawyers do not receive any "Continuing Legal Education" or equivalent credit for pro bono hours worked, however in some law firms the hours worked on pro bono cases are taken into account for a "billable hours target" (if applicable) which target can be linked to a bonus.
(d)	Sources of Pro Bono Opportunities and Key Contacts	
	1. Describe any governmental sources of pro bono	The Dutch Legal Aid Act contains the right for litigants in civil cases to avail themselves of state-

⁶ See article 3.9 of the Code of Conduct for European Lawyers and article 6.24 of the Lawyer Decree (*Verordening op de advocatuur*).

	<p>and/or other legal services in the Netherlands.</p>	<p>subsidized legal aid if they meet certain criteria, primarily based on income.⁷ A lawyer who provides legal aid services for a subsidized fee is often called a <i>pro deo</i> lawyer (a pro bono lawyer receives no compensation at all).</p> <p>Under the supervision of the Legal Aid Board (<i>Raad voor Rechtsbijstand</i>), two parties provide primary and secondary legal assistance to indigents: (i) Legal Services Counters (<i>Juridsch Loketten</i>), commonly known as the "front office", serve as the primary point of contact for legal aid and, if necessary, will assist with referrals to a lawyer or mediator; and (ii) private lawyers and mediators, registered with the Legal Aid Board, provide secondary legal aid in more complicated or time-consuming matters.</p> <p>In addition to lawyers in private practice, a variety of non-profit organizations subsidized by national and local governments are available to provide legal services to indigents. For instance, there is a national organization of "social advisers" (<i>Sociaal Raadslieden</i>)⁸, subsidized primarily by municipalities, that assists indigents in completing forms, writing letters and bringing administrative appeals.</p>
	<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in the Netherlands.</p>	<p>There are many non-profit organizations in the Netherlands that provide legal advice at no cost. These foundations are commonly known as <i>Rechtswinkels</i> (Law Stores).⁹ Staff usually consists of law students and other volunteers, and they can exist as separate foundations or be part of a university. The <i>Rechtswinkels</i> are the larger non-governmental sources that provide legal services at no costs, the links to their websites are provided in footnote 8.</p>
	<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>In the Netherlands Pro Bono Connect¹⁰ is the first public interest clearinghouse which acts as an intermediary between non-governmental organizations and law firms. Fifteen of the Netherlands' largest law firms support Pro Bono</p>

⁷ See the Dutch Legal Aid Act (de Wet op de Rechtsbijstand), available at <https://wetten.overheid.nl/BWBR0006368/2018-01-01#HoofdstukIII> (last visited on May 1, 2019).

⁸ See <https://www.sociaalwerknederland.nl/sociaal-raadslieden> (last visited on May 1, 2019).

⁹ Examples of these Law stores are the Law Store Utrecht, Law Store Leiden and Law Store Rotterdam (See <https://www.rechtswinkelutrecht.nl/vacatures/>, <https://www.leidserechtswinkel.nl/> and <http://rechtswinkelrotterdam.nl/> (last visited on May 1, 2019).

¹⁰ See <https://probonoconnect.nl/en/> (last visited on May 1, 2019).

		<p>Connect. NGO's may contact Pro Bono Connect with legal questions concerning the aims of their organization or questions that are of strategic importance for their work. After receiving a request from an NGO, the project coordinator will contact the organization to further assess whether it is suitable for submission to a law firm. The project coordination will also, if necessary, assist the NGO to frame the legal question. Pro Bono Connect is a clearing house which intermediates between the non-governmental organization and one of the fifteen Netherlands' top firms that are members of Pro Bono Connect. It is not possible for individual lawyers to become a member of Pro Bono Connect.</p>
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