

Better Access To Justice In Turkey

**Istanbul
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Legal Aid Board
The Netherlands**

The Netherlands

General Information

- 16 million people
- 12 provinces
- 467 municipalities
- parliamentary democracy
- multi (political) party system
- government built by coalition

In advance

- **To create a good system of legal aid it is necessary to strike the right balance between the interests of the various stakeholders:**
 - * **those who need legal aid;**
 - * **those who provide legal aid;**
 - * **those who pay legal aid (taxpayers);**
 - * **the government;**
 - * **others who benefit from of a good legal aid scheme (i.e. courts).**
- **It takes al lot of time**
- **It is a never ending story**

It is about.....

.....and

Central questions to deal with (1)

1. What are the **international obligations** and what is stated in the **constitution** or other laws?
2. What **needs** are to be covered?
3. In what way will legal aid be **delivered**? (the different providers, public/private)
4. Who is **eligible**?
5. Where comes the **money** from?

Central questions to deal with (2)

6. By whom and how is **quality** reassured?
7. By whom and how is the **awareness** stimulated of being able to get legal aid and where to go to get it?
8. How is the system **managed**?
9. How is the **accountability** arranged?
10. How is the system **monitored**?

Who's who?

- **Parliament**
- **Decision-maker - sets budget and conditions for fees, contributions and type of services and cases**
- **Ministry of Justice (MoJ) and department for Legal Services**
- **Policy-maker - proposes budget**
- **Legal Aid Board**
- **Policy implementers - spend budget and advise**
- **Private lawyers, Legal Services Centres, Mediators**
- **Providers of legal assistance**

Main characteristics 1

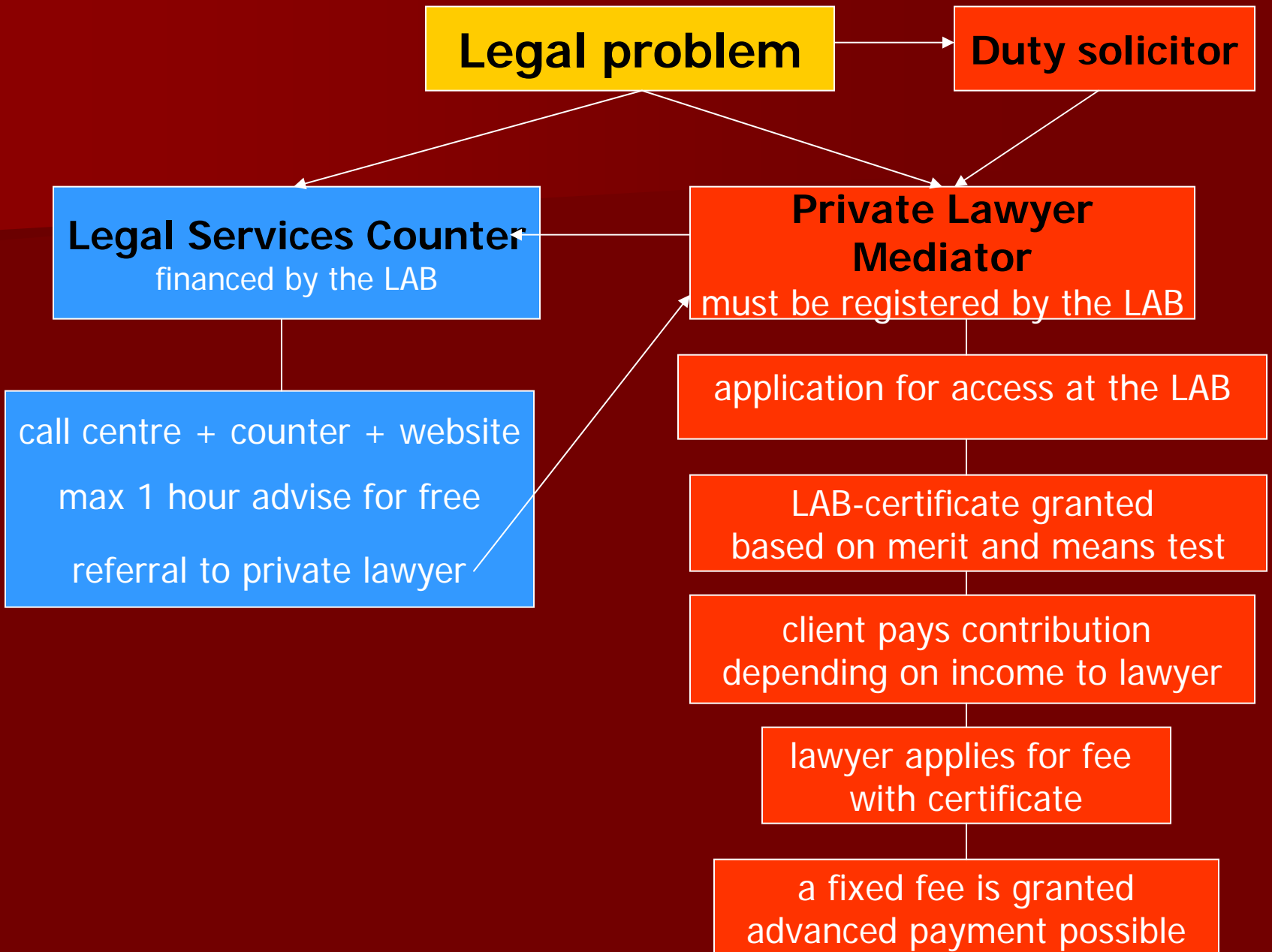
- **Everyone who cannot afford the costs of legal services is entitled to rely on the provisions of the Constitution and the Legal Aid Act.**
- **Parliament sets budget and defines the rules for access, the type of services and cases, contribution, fees etc.**
- **Ministry of Justice is the sole funder and policymaker.**
- **The Legal Aid Board (since 1994) is responsible for the administration and expenditure of the Legal Aid Fund as well as the policy-related issues.**

Main characteristics 2

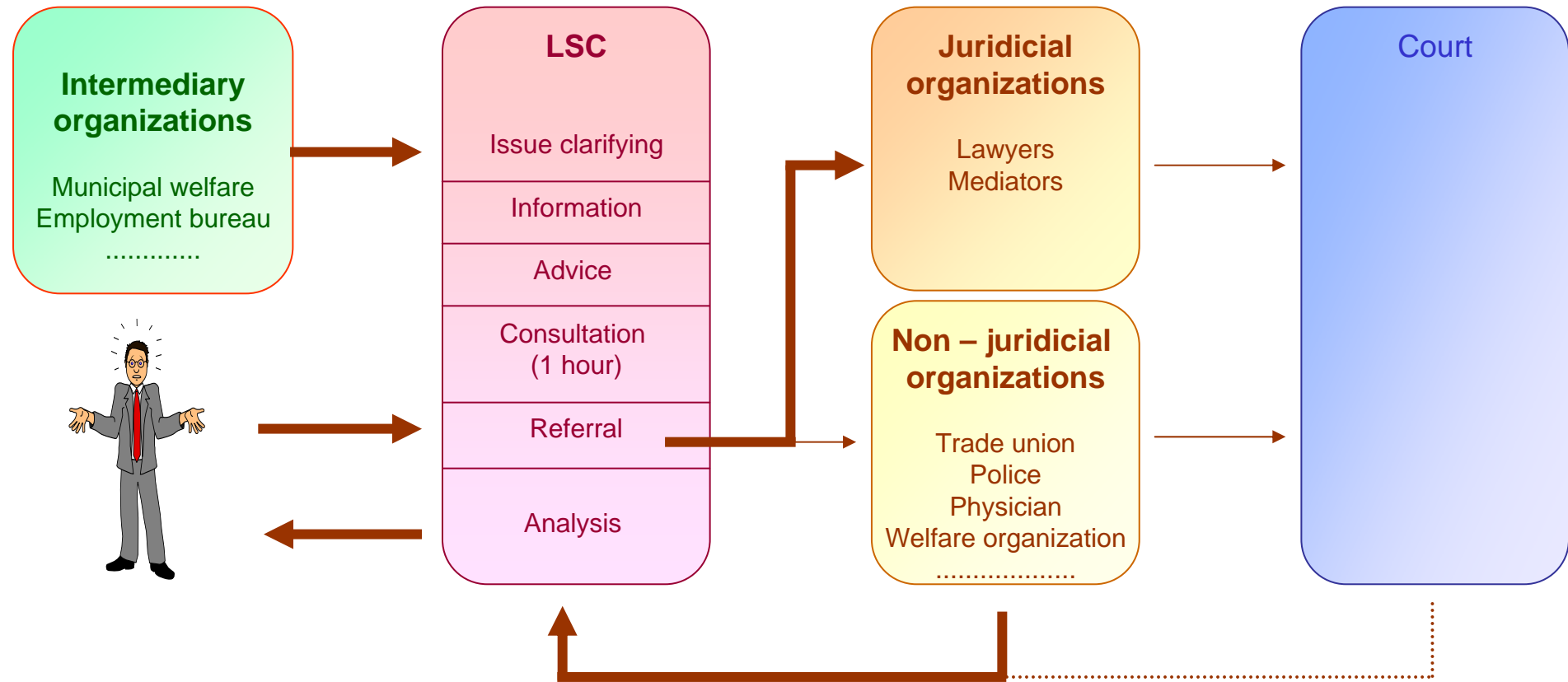
- **The Legal Aid Board (members appointed by the Ministry of Justice) is set up as independent management bodies but is accountable to the Ministry.**
- **Mixed model, with public providers (Legal Services Counter) and private lawyers and mediators.**
- **For all kind of legal cases (civil, criminal, administrative and asylum).**
- **For all kind of legal services: advice, assistance and representation.**

Main characteristics 3

- **Front offices for information, clarification of issues, advice, consultation < 1 hour and referral. Free of contribution.**
- **30 offices nationwide.**
- **Private lawyers for extended consultation and certificates.**
- **Free choice of legal adviser.**
- **Contribution dependent on income.**



LSC in the chain



The Legal Services Counter distribution criteria:

Availability

Specialism

Distance client - lawyer

Number of referrals

Private lawyers

(having a referral arrangement)

Selected lawyer



Reasons for creating a LAB

- **The principle of the separation of policy making and policy execution**
 - **Execution in close contact with the providers**
 - **Execution with knowledge of the local context**
 - **Avoid a conflict of interests**
- **Organisation and control in one hand makes the system easier to manage and control**
- **There is a spokesman for the interests of legal aid, semi-independent of the political actors**

Statutory tasks of the LAB's 1

- **Assessing applications for legal aid (means, merits and significance test).**
- **Assessing and paying the bills of lawyers.**
- **Matching supply and demand.**
- **Admitting lawyers to the system and entering into agreements with third parties f.e. mediators.**
- **Arranging funding (planning and control of the LSC's).**

Statutory tasks of the LAB's 2

- **Supervising a system for assessing the quality of the admitted lawyers.**
- **Organising the emergency defender service (duty solicitors).**
- **Monitoring and advising on new policy.**

Three types of services

- **Consultation hour (max. 1 hour). Provided by LSC's. No contribution.**
- **Extended consultation (>1 hour and < 3 hours). Contribution 13,5 Euro. Marginal means test. Provided by private lawyers;**
- **Legal aid based on a certificate. Assistance provided by private lawyers. Assessment of the application by the Legal Aid Board. Income-dependent contribution (€98-€712).**

Legal Aid in the Netherlands

Figures	1994	2004	2006	2008	
Population	15,300,000	16,292,000	16,334.000	16,358,000	
Eligible	49 %			42%	
Providers	1994	1998	2004	2006	2008
Bar members total	8,000	9,900	13,111	14,300	15,000
Participants	6,550	7,200	6,415	7,100	7,154
Staf member LSC	200	210	250	265	280

Legal Aid in the Netherlands

Budget €uro	1994	1998	2006	2007	2008
€uro per capita	€12,-	€12.6-	€24.2-	€26,-	
Hourly rate	€57,-	€61.5	€101,-	€103.2	€107,-

Number of applications

	1994	1998	2004	2006	2008
Civil	202,000	166,000	188,000	223,000	245,000
Criminal	73,000	87,000	137,000	153,000	159,000
Duty solicitor	65,000	64,000	89,000	91,300	86,000
Asylum	30,000	33,000	23,500	21,000	19,000

Legal Aid in the Netherlands

	2000	2002	2004	
Legal Aid and Advice Bureau Number of cases	448,000	457,000	398,500	
	2005	2006	2007	2008
Legal Services Counters Number of cases	261,700	575,700	599,400	645,000

Decisive factors for success (1)

- Invest in the quality and independency of the legal institutions and the legal professions
- Claims must match with available resources
- Introduce a semi-independent body to manage and control the system
- Make the organizing body and the other key players accountable (value for money)
- Research and monitor results, keep statistics, search for lessons to be learned

Decisive factors for success (2)

- **Create awareness under the population**
- **Screen cases through a front office. Make a distinction between primary and secondary legal aid**
- **Make procedures simple and impose a light administrative burden (means and merit test)**
- **Pay reasonable fixed fees**
- **Ask a reasonable contribution of the client**

Functions primary legal aid

- **Low threshold for access to justice**
 - **Easy accessible**
 - **Low costs**
- **Informed about his position a client can make a well considered decision if and how to proceed**
- **Screening function**
 - **avoiding escalation**
 - **minimizing costs**

Legal Services Counters

- **30 spread over the country**
- **Staffed by minimum 6 legal advisers (lawyers as well as paralegals)**
- **Contacts**
 - telephone (66%)
 - counter (30%)
 - email (4%)
- **Products**
 - information/ advice (79%)
 - consultation (11%)
 - referral (10%)