

26 October 2026

09:00 - 11:00 CET

Zoom Webinar

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Anna Pivaty

Why does effective criminal legal aid matter?

26 October 2026, 09:00 - 11:00 CET, Zoom

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From rights on paper to rights in action

TWENTY+ YEARS OF RESEARCH

The implementation gap has been the recurring lesson — and is now at the centre of the European debate

2006–2010

RECOGNISE RIGHTS

The legal promise

‘Effective Criminal Defence in Europe’: Formal entitlements and systemic gaps

2013–2020

EXAMINE PRACTICE

The empirical reality

Inside Police Custody • Pivaty (2020): Access, advice and interventions

2025–2026

EQUIP THE DEFENCE

The ‘new’ question

CJEU case law • legal aid debates
What makes rights effective or ‘exercisable’?

DEFENCE LAWYERS ARE THE WATCHDOGS OF CRIMINAL JUSTICE

But they cannot protect rights without access to clients, information and resources

Cape et al. (2010); Blackstock et al., Inside Police Custody (2013/14); Pivaty (2020)

Nine contemporary challenges to effective defence

THE NEXT PHASE OF THE DEBATE

A shift from recognising rights to financing and enabling their practical exercise

01 TIMELY ACCESS

No questioning without meaningful lawyer access

02 LEGAL AID CAPACITY

Fees, 24/7 cover and regional shortages

03 REAL & EFFECTIVE PARTICIPATION

Time, trust, disclosure and lawyer interventions

04 ADDRESSING VULNERABILITY

Children, distress, disability and language barriers

05 AI + DIGITAL EVIDENCE

Tools and expertise to contest technical claims

06 CONFIDENTIALITY

Privilege, secure advice and data protection

07 REMOTE ASSISTANCE

Video and telephone: supplement or substitute?

08 CROSS-BORDER DEFENCE

Dual representation, files and resources

09 EFFECTIVE REMEDIES

Can the defence obtain meaningful redress?

A million-dollar question: Is the responsibility for turning procedural rights into safeguards increasingly being shifted upon criminal defence lawyers?

Sources: EU Directives 2012/13, 2013/48 & 2016/1919; CJEU (2025–26); ECBA/CCBE (2026); Pivaty (2020).

Procedural rights are not self-executing

WHAT EFFECTIVE CRIMINAL DEFENCE ENTAILS

The lawyer performs both client-facing and authority-facing functions – both are required to make procedural rights effective in practice

WITH THE CLIENT

Build trust and obtain an account
Explain rights (silence, waiver of rights)
Identify vulnerability and safeguard welfare
Co-develop a procedural strategy

WITH THE AUTHORITIES

Demand disclosure and examine evidence
Intervene in questioning and object
Challenge detention and procedural breaches
Investigate, negotiate, contest

Pivaty (2020), ch. 2, pp. 17–31: normative model of effective criminal defence at the investigative stage

Three conditions of meaningful defence

BEYOND FEES

Payment alone cannot compensate for exclusion from clients, evidence or other (non-financial) resources

1

1 CLIENT

Private consultation, trust, communication, interpretation

Can I reach and understand my client?

2

2 INFORMATION

Timely information on charges, custody record, disclosure incl. digital materials

Can I know and test the case?

3

3 RESOURCES

Sufficient time, fair pay, experts, access to digital tools, training and independence

Can I act on what I know?

Inside Police Custody (2013); EU Directives: 2013/48/EU (consultation), 2012/13/EU (information), 2016/1919 (funding and quality).

At the police station: rights meet routine

EVIDENCE FROM FIELDWORK

Comparative observations in the Netherlands and England & Wales (2013/2014)

5 MINUTES

A Dutch consultation observed in the study

Minimal disclosure, generic silence advice, little exploration of the client's account.

Inevitable when consulting via a telephone/remotely?

25 / 52

Observed English police interviews with lawyer intervention

Interventions mostly to clarify answers or request consultations, rarely to challenge questioning.

Observed sample; not a national rate

Pivaty (2020), pp. 44–45 and 81–83. Case observations reflect the historical fieldwork, not national prevalence.

24 hours on a duty rota: an unpredictable sequence

LIFE ON DUTY

A hypothetical timeline — not a representative study

1. **CALL** — Night call-out and travel
2. **TRIAGE** — Police disclosure, custody record
3. **CONSULT** — Trust, vulnerability, strategy
4. **INTERVIEW** — Monitor, intervene, clarify
5. **AFTER** — Release, bail, representations
6. **REPEAT** — Notes, travel, court list

24/7

urgency
travel
waiting
fatigue

Pivaty (2020), pp. 1–2, 141–144; typical duty-work processes; actual tasks and timing vary by jurisdiction.

The invisible labour of criminal defence

THE HUMAN COST

Lawyers manage clients' emotions while regulating their own

VISIBLE LEGAL WORK

- Advice and procedural strategy
- Evidence and disclosure
- Interview interventions
- Bail and detention arguments

INVISIBLE EMOTIONAL WORK

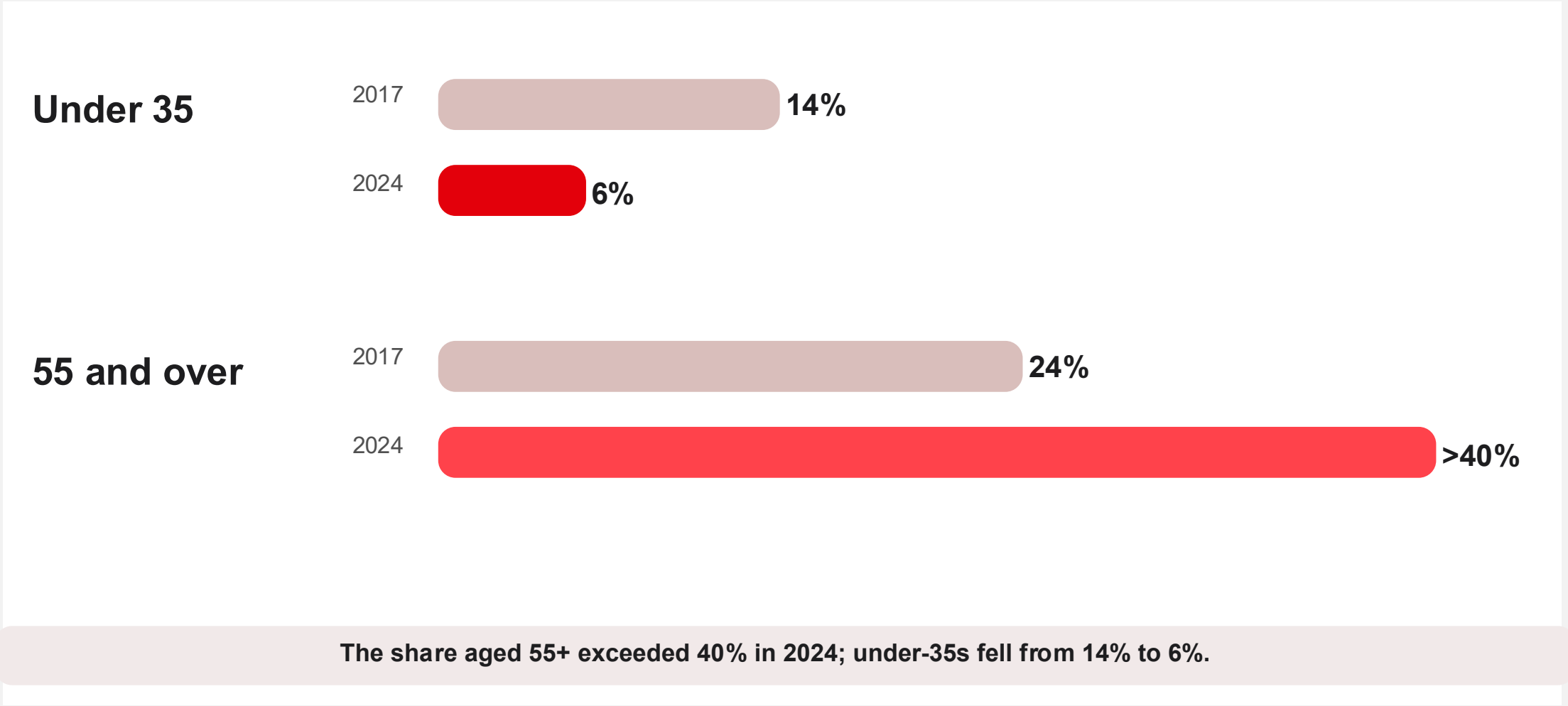
- Create trust under time pressure
- Stabilise fear, anger and distress
- Manage secondary exposure to trauma
- Remain composed, loyal and professional

Pivaty (2020), pp. 17–20, 48–49; Flower (2019), "Emotional Defence Lawyers"; Newman & Welsh (2019).

The profession itself is an access-to-justice resource

AVAILABILITY

England & Wales: duty-solicitor workforce is ageing



The share aged 55+ exceeded 40% in 2024; under-35s fell from 14% to 6%.

Institute for Government, Performance Tracker 2025, using Ministry of Justice / Legal Aid Agency data. 2024 “55+” rounded floor shown.

The justice budget: where does legal aid sit?

THE FINANCING STRUCTURE

CEPEJ European averages, 2022 underlying data — indicative allocation only



COURTS

around two-thirds

PROSECUTION

25% approx.

LEGAL AID

11% approx.

Budget shares ≠ quality. CEPEJ aggregates civil and criminal legal aid; coverage and accounting differ by state.

CEPEJ Evaluation Report, 2024 cycle (2022 data), Main Trends & Conclusions; EU Justice Scoreboard 2026, Figure 24 for criminal fees.

Legal aid fees in Europe: “flat-fee systems” with adjustments

PAY MODELS IN PRACTICE

Illustrative comparison of remuneration mechanisms at different procedural stages

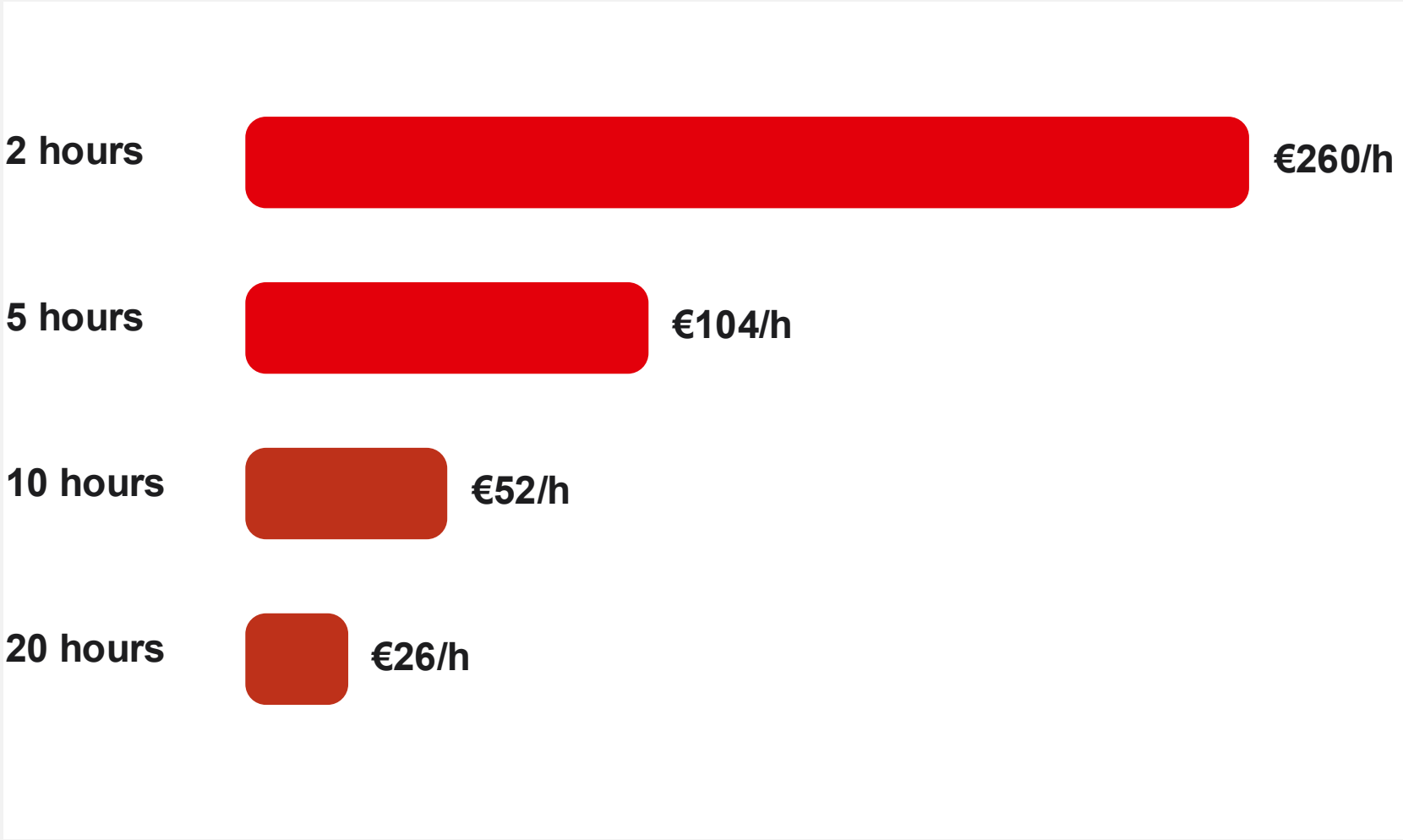
SYSTEM	FUNDING / REMUNERATION	STRUCTURE
IRELAND	District Court: €520 per accused / case	One-case fixed fee; 2026 dispute
ENGLAND & WALES	Police station: £320 fixed + escape above £650	Fixed case fee with threshold
NETHERLANDS	Case points / forfait + possible extra hours	Points + exceptions
BELGIUM	Legal-aid tasks valued through points / nomenclature	Standard units; may request adjustment
GERMANY	Statutory stage/activity fees under RVG	Tariff fees + hardship exception

National statutory/agency sources; examples are not directly comparable (different stages, included work, adjustments).

A fixed payment loses value as required work grows

WHY FLAT FEES MAY BE IN BREACH OF ART 7 DIRECTIVE 2016/1919/EU

Hypothetical hourly equivalent for Ireland's €520 case fee (not actual hours worked)



What is not included?

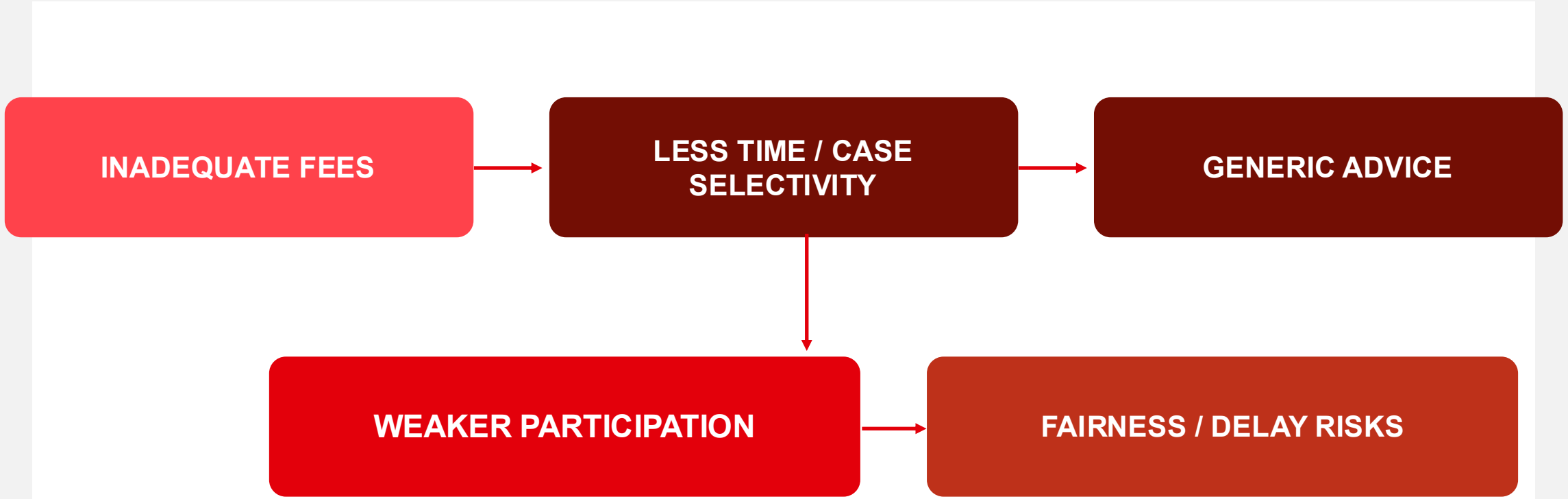
Extra interviews
Review time
Difficult clients
Complex evidence
Travel & waiting

Illustrative arithmetic using the €520 District Court case fee (Ireland, 2026); before overheads, taxes, disbursements and any permitted additional payments.

Underfunding creates a chain of constraints to justice

THE CHAIN EFFECT OF INADEQUATE FEES

Not a deterministic outcome — a risk supported by qualitative research



But pay alone is insufficient: training, professional culture, disclosure, client access and oversight also matter.

Pivaty (2020), pp. 141–145, 180–181; Welsh (2017); Thornton (2019); Dehaghani & Newman (2021).

When payment reform becomes a justice-system crisis

CASE STUDY · IRELAND

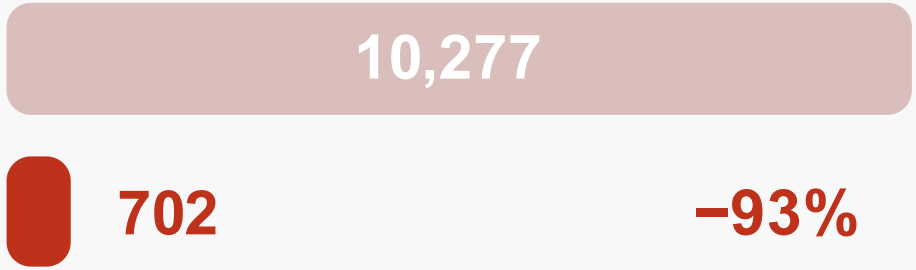
District Court scheme introduced 1 July 2026; dispute ongoing as of 25 October

€520

One accused · one fee

Government argument:
more predictable spending and fewer incentives for repeated appearances

2025 → 2026 · JULY CERTIFICATES



Law Society citing Courts Service data; decline coincided with withdrawals, not proof of a fee-only causal effect.

Irish Department of Justice (24 Feb 2026); Law Society Ireland (28 Sept & 13 Oct 2026); RTÉ (16 Oct 2026). Judicial review due 3 Nov.

Access + quality + resources: a three-layer obligation

LEGAL STANDARDS

International standards require much more than nominal appointment

EU LAW	Directive 2013/48: timely private consultation, lawyer participation. Directive 2012/13: access to information. Directive 2016/1919 Art 7: adequate-quality legal aid, including funding.
UN PRINCIPLES	Basic Principles on the Role of Lawyers (1990), paras 3, 8 and 21: sufficient funding and resources; adequate time/facilities with clients; early access to relevant files.
UN SPECIAL RAPPORTEUR	A/HRC/23/43 (2013): states should build effective, accessible, independent and sustainably funded legal aid systems. [Update pending].

Directive 2016/1919 does not bind Ireland or Denmark; art. 7 applies in participating EU Member States.

A formal entitlement is not enough

RECENT CJEU CASE LAW

CJEU is making the timing and practical exercise of rights more demanding

08 MAY 2025

C-530/23 · K.P.

Vulnerability before questioning

Identify vulnerability and ensure legal-aid lawyer access without undue delay, before interrogation.

22 OCT 2026

C-660/24 & C-681/24

No routine questioning after lawyer fails to arrive

Hungary and Czechia infringed EU law by permitting ordinary time-limit exceptions to counsel's presence.

CJEU C-530/23, 8 May 2025; Commission v Hungary C-660/24 & Commission v Czechia C-681/24, 22 October 2026.

Digital legal assistance: what do we know?

WILL IT BECOME THE ‘NEW NORMAL’?

ENGLAND & WALES

177,587 police-station advice matters · Apr–Jun 2026



Solicitor attended police station

The rest: mainly telephone advice

EU Commission EIO Directive Survey (2026)

13 / 18

responding states provide for

REMOTE PARTICIPATION

at some stages in domestic proceedings

EVIDENCE GAP · No EU-wide reporting on the prevalence of digital lawyer–client consultations and remote representation in practice

Sources: UK Ministry of Justice, Legal Aid Statistics Apr–Jun 2026 (24 Sept); European Commission SWD(2026) 780, questionnaire of 18 responding Member States.

Digital defence: new access, new asymmetries

DESIGN CHOICES · NOT A SIMPLE TRADE-OFF

Remote advice may increase reach — but it can weaken the relationships and interventions that effective rights depend on

POTENTIAL GAINS

- Faster initial contact and advice
- Less travel across remote duty areas
- Continuity across institutions/borders
- Potentially lower cost for non-critical steps

RISKS TO EFFECTIVE DEFENCE

- Confidentiality depends on space/device
- Trust, non-verbal cues and emotional care
- Harder to interrupt or contest questioning
- Vulnerable clients may lose most

DESIGN FOR EFFECTIVENESS · not just digital availability

REAL CHOICE	PRIVATE CHANNEL	FULL DISCLOSURE	ABLE TO ACT	IN-PERSON FALLBACK

Sources: Transform Justice / Fair Trials (2021); EU Commission SWD(2026) 780; Lietonen et al. (2026); Tilburg e-ViVi research (2026); CJEU 22 Oct 2026.

Invest in the watchdogs of criminal justice

IN CONCLUSION

The move from rights on paper to rights in action requires an institutional investment

1 ACCESS

Prompt assignment, travel coverage, private consultation and continuity

2 INFORMATION

Meaningful disclosure, understandable records, digital access

3 RESOURCES

Complexity-sensitive pay, experts, interpretation, training

4 ACCOUNTABILITY

Quality assurance, independent practice, data on availability

A lawyer on paper is not enough. Defence lawyers needs the real capacity to act.

Synthesised from Pivaty (2020), EU procedural-rights Directives, UN principles, CJEU, and comparative research.

International Workshop for Lawyers
30 - 31 March 2026

Making criminal legal aid work better in practice:

The EU Legal Aid Directive: what has it achieved?

Bärbel Heinkelmann
Directorate-General for Justice and Consumers
Criminal Procedural Law Unit A5

Outline

I. Introduction and context

II. The role of the Commission: Infringement proceedings and preliminary ruling proceedings

III. Main elements of Directive 2016/1919 - related challenges

IV. Best practices

European Commission

I. Introduction and context

- **Directive 2010/64/EU** *Right to interpretation and translation*
- **Directive 2012/13/EU** *Right to information*
- **Directive 2013/48/EU** *Right of access to lawyer*
- **Directive (EU)2016/343** *Presumption of innocence and right to be present at trial*
- **Directive (EU) 2016/800** *Procedural safeguards for children*
- **Directive (EU) 2016/1919** *Legal aid*

Non-binding instruments:

- Commission Recommendation of 27 November 2013 on **procedural safeguards for vulnerable persons** suspected or accused in criminal proceedings
- Commission Recommendation of 27 November 2013 on the right to **legal aid** for suspects or accused persons in criminal proceedings
- Recommendation (EU) 2023/681 on procedural rights of suspects and accused persons subject to **pre-trial detention and on material detention conditions**

European Commission

I. Introduction and context

Directive on legal aid for suspects and accused in criminal proceedings and requested persons in European arrest warrant proceedings:

- 27 November 2013: Commission Proposal on provisional legal aid for suspects or accused persons deprived of liberty and legal aid in European arrest warrant proceedings;
- Negotiations between European Parliament and the Council of the European Union (2013-2016);
- 26 October 2016: Adoption (OJ L 297, 4.11.2016, p. 1-8);
- Transition period until 5 May 2019 (Corrigendum: OJ L91, 5.4.2017);
- 1 February 2023: Report by the Commission.

European Commission

II. The role of the Commission

Infringement proceedings:

- Types of proceedings:
  - non-communication cases: failure to notify national measures transposing a directive (Articles 258 and 260(3) TFEU)
  - non-conformity cases: non-conformity of national transposition law with EU directives (Article 258 TFEU)
  - incorrect or bad application of directives: cases where the Member State fails to achieve the result intended by a directive, while the directive is correctly transposed into national law (Article 258 TFEU).
- Procedure: letter of formal notice; reasoned opinion; referral to the Court of Justice of the European Union
- Decisions: normally adopted at the level of the College; exception empowerment procedure, if Member State fails to notify any transposition measure

Preliminary ruling proceedings (Article 267 TFEU)

European Commission

III. Main elements of Directive 2016/1919 - related challenges:

Article 2 of the Directive: Scope of application

- Suspects and accused persons in criminal proceedings who have a right of access to a lawyer pursuant to Directive 2013/48/EU; and who are
  - Deprived of liberty
  - required to be assisted by a lawyer in accordance with Union or national law; or
  - required or permitted to attend an investigative or evidence-gathering act, including as a minimum the following: identity parades; confrontations; reconstruction of crime scene.
- Requested persons who have a right of access to a lawyer pursuant to Directive 2013/48/EU.
- Challenges:
  - Making procedural rights of suspects of accused persons dependent on a formal act, such as a charge (Court of Justice of the EU, judgment of 7 September 2023, AB, C-209-22, EU:C:2023:634)
  - Reduced personal scope: valid residence title - reciprocity

European Commission

III. Main elements of Directive 2016/1919 - related challenges:

Articles 3 and 4 of the Directive: Cost recovery after conviction?

- Absence of a provision expressly concerning recovery of the costs
- Directive 2016/1919 builds on the third paragraph of Article 47 of the Charter, which itself corresponds to Article 6 ECHR
- Recitals 17 and 30 indicate that the directive and the rights provided for therein should be interpreted in accordance with the case-law of the Court of Justice and of the European Court of Human Rights
- Recital 8, second sentence: *When granting legal aid, the competent authorities of the Member States should be able to require that suspects, accused persons or requested persons bear part of those costs themselves, depending on their financial resources.*
- Article 20 of the Charter: similar situations must not be treated differently, and different situations must not be treated in the same manner, unless such different treatment is objectively justified
- Case C-230/25: Opinion by Advocate General of 21 May 2026

III. Main elements of Directive 2016/1919 - related challenges:

Articles 4 and 5 of the Directive: Possibility to grant legal aid *ex officio*

- Recital 18: *Member States should lay down practical arrangements regarding the provision of legal aid. Such arrangements could determine that legal aid is granted following a request by a suspect, an accused person or a requested person. Given in particular the needs of vulnerable persons, such a request should not, however, be a substantive condition for granting legal aid.*
- Therefore, legal aid should be granted *ex officio*, in particular where necessary for protecting the needs of vulnerable persons.
- Court of Justice judgment of 8 May 2025 in Case C-530/23, Baralo, paragraph 70

European Commission

III. Main elements of Directive 2016/1919 - related challenges:

Articles 4(4) and 9 of the Directive: Criteria of merits testing

- Article 4(4), first sentence and Article 9:
  - Seriousness of the criminal offence
  - Complexity of the case
  - Severity of the sanction at stake
  - personal situation of the suspect or accused person: particular needs of vulnerable persons
- Article 4(4), second sentence: In any event, the merits test shall be deemed to have been met in the following situations:
  - where a suspect or an accused person is brought before a competent court or judge in order to decide on detention at any stage of the proceedings within the scope of this Directive
  - During detention

European Commission

III. Main elements of Directive 2016/1919 - related challenges:

Articles 4(5), 5(1) and 6(1) of the Directive: Granting legal aid without undue delay

- Article 6(1): Decisions without undue delay on whether or not to grant legal aid and on the assignment of lawyers shall be made.
- Article 4(5): Granting of legal aid is granted without undue delay, and at the latest before questioning or the carrying out of relevant investigative or evidence-gathering acts.
- Article 5(1): Right to legal aid upon arrest pursuant to a European arrest warrant.

European Commission

III. Main elements of Directive 2016/1919 - related challenges:

Other issues

- Article 5(2): Legal aid in EAW proceedings when the Member State issues a EAW
- Article 6(1): Decision by a competent – independent – authority
- Article 6(2): Information in writing about a negative decision
- Articles, 2(1) and 4 in conjunction with Article 20 of the Charter: Derogations from the right of access to a lawyer applying only to cases of mandatory defence, i.e. merits texted legal aid

European Commission

IV. Best Practices:

- Many Member States have changed their legislation or have signalled their intention to do so
- Legal aid from early stages of proceedings: legally based on-call systems organised by bar associations

European Commission

Thank you!



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European Commission



Federico Cappelletti

National best practices: What works and what does not?
Criminal Legal Aid in Italy

26 October 2026, 09:00 - 11:00 CET, Zoom

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A solid legal foundation

Two essential pillars

ITALIAN CONSTITUTION

Art. 24(3)

Legal assistance for those without sufficient means

PRESIDENTIAL DECREE No. 115/2002 (DPR 115/2002)

Consolidated Law on Court Costs

Legal aid: *Part III, Titles I–II, Arts. 74–114* (general rules and criminal proceedings)

The statutory framework is the starting point — not the whole measure of effectiveness.

Access: eligibility and special provisions

BASIC ANNUAL THRESHOLD

Art. 76(1), DPR 115/2002; Decree of 22 April 2025

€13,659.64

BIENNIAL ADJUSTMENT

Art. 77, DPR 115/2002

CRIMINAL PROCEEDINGS UPLIFT

Arts. 76(2) and 92, DPR 115/2002

+ €1,032.91

per cohabiting family member; family income generally aggregated

ADMISSION AND EFFECTIVE DATE Judicial determination · Effective from the date of application · *Arts. 96(1) and 109, DPR 115/2002*

SPECIFIED VICTIMS

Legal aid irrespective of income

Art. 76(4-ter), DPR 115/2002; Constitutional Court Judgment No. 1/2021

NON-EU DEFENDANTS

Consular evidence of foreign income

Statutory declaration if unobtainable

Arts. 79(2) and 94(2), DPR 115/2002; Constitutional Court Judgment No. 110/2024

Professional standards: who may provide legal aid?

Directive (EU) 2016/1919 · Art. 7 → "Adequate quality" is a legal requirement

Art. 81(2) DPR 115/2002

SENIORITY

At least 2 years' Bar membership

COMPETENCE

Relevant professional experience

DISCIPLINARY RECORD

No sanction more severe than a warning in the preceding 5 years

PUBLIC LIST OF ELIGIBLE LAWYERS — Updated by 31 January each year · available at judicial offices

Remuneration: two successive constraints

01 *Art. 82 DPR 115/2002*

Fee assessment

Average professional fee parameters as a statutory ceiling

Case-specific departures require justification

THEN

02 *Art. 106-bis DPR 115/2002*

– 1/3

Further automatic reduction in criminal proceedings

REDUCED FEES + DELAYED PAYMENT

Risk to sustainability and the participation of experienced practitioners

Payment: a burden and a response to delays

ADDITIONAL CONSTRAINT

Checks before payment

Since 15 June 2026

Outstanding tax-collection debts totalling €5,000 or more may lead to the redirection of fees otherwise payable to the lawyer.

Art. 48-bis(1-ter), Presidential Decree No. 602/1973, introduced by Art. 1(725) of Law No. 199/2025 and amended by Art. 2-ter(1), Decree-Law No. 38/2026, as converted into Law No. 88/2026.

CONSTRUCTIVE RESPONSE

Offset of unpaid fees

Taxes + Social security contributions

Reform advanced through the profession's efforts, beginning with a motion at the 2014 Italian National Bar Congress in Venice

Art. 1(778), Law No. 208/2015, as amended by Art. 1(860), Law No. 197/2022; Interministerial Decree of 15 July 2016, as amended by the Interministerial Decree of 31 August 2023.

The offset mechanism mitigates late payment. It cannot replace timely payment by the State.

Diaco and Lenchi v. Italy: a concrete benchmark for payment delays

ECtHR · 11 December 2025 · Applications nos. 15587/10, 32536/10 and 18531/14, § 85

Article 1 of Protocol No. 1 · Article 46 ECHR

FIRST PERIOD

≤ 6 months

Fee assessment order → ability to invoice

+

SECOND PERIOD

≤ 6 months

Invoice → actual payment

=

TOTAL

≤ 12 months

The opposition period is excluded · Exceptional circumstances may justify longer delays

§ 109 — The Court expressly attached importance to the evidence of widespread payment delays submitted by the Union of the Italian Criminal Chambers (UCPI) as a third-party intervener

Diaco-Lenchi: art. 46 ECHR and subsequent procedural complications

Diaco and Lenchi v. Italy, § 115 — Assessing possible structural shortcomings and adopting appropriate general measures where necessary

Ministry of Justice Circular · 25 July 2026

30 DAYS

Opposition period triggered by notification

UP TO 6 MONTHS

Otherwise, ordinary period from publication may apply

PROPOSED SOLUTION **Uniform 30 days from communication, notification or pronouncement in court**

Criminal legal aid in Italy: a recap

WHAT WORKS

- Constitutional and statutory guarantees
- Special access provisions for certain victims
- Professional eligibility requirements
- Offsetting unpaid legal-aid fees

WHAT DOES NOT

- Income thresholds may not reflect actual defence costs
- Limits on the choice and organisation of defence
- Mandatory reduction of legal-aid fees
- Persistent payment delays and procedural obstacles

The true measure of legal aid is not the rights it promises on paper, but the defence it makes possible in practice.

Timely payment • Viable publicly funded defence • Meaningful access to justice

To be continued…

The execution of Diaco and Lenchi v. Italy

under the supervision of the Committee of Ministers of the Council of Europe



Gwen Jansen – de Wolf

Legal Aid in the Netherlands

26 October 2026, 09:00 - 11:00 CET, Zoom

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WHERE THE FIGHT STARTED · MAY 2017

“Give a lawyer little time for a suspect, and the defence won’t amount to much.”

— **Fred Teeven**, State Secretary for Security & Justice 2010–2015, on what he did when minimum sentences proved politically impossible

Rarely has a budget cut been explained so honestly.

THE FIGHT, PART 1 · 2010–2017

Asked to find savings. Found a hole.

2010–15 · Teeven cuts; €85m still pending in 2017

2015 · Wolfsen report: rising costs, re-check the points

2016 · Van der Meer Committee installed

May 2017 · Teeven interview

Oct 2017 · Report *Andere tijden*

Nov 2017 · Cabinet: no money. Bar walks out

The brief (2016): change the points, but

€0 extra

The answer (Oct 2017):

€127m

a year short. “Without good legal aid, the rule of law is a theoretical notion.”

THE BENEFITS SCANDAL · TOESLAGENAFFAIRE

No lawyer, no alarm bell.



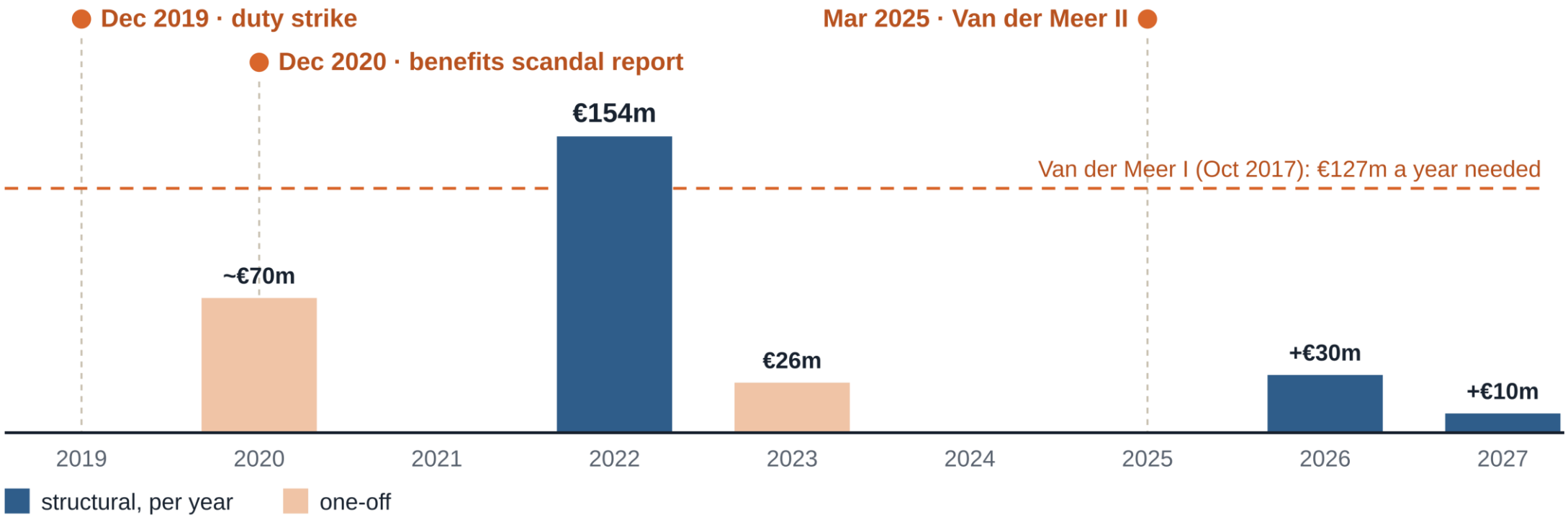
Thousands of parents wrongly branded fraudsters by the tax authority.

Deemed **“self-reliant”**, they got no state-funded lawyer; certificates already granted were **withdrawn**.

Result after *Ongekend onrecht* (Dec 2020): free aid for victims, and the **Ratz** safety net from July 2021.

THE FIGHT, PART 2 · 2019–2027

Every euro had to be fought for



TWO REPORTS, ONE MESSAGE

The sequel: same author, same plot, smaller budget

VAN DER MEER I

Andere tijden

2017

€127m

Brief: spend nothing. Finding: lawyers work far more hours than they are paid.

VAN DER MEER II

Veranderde tijden

2025

€40m

Fees mostly fit now; surcharges +35%; firms need an office allowance.

Spoiler, both times: “Without adequate legal aid, the rule of law is only a theoretical notion.”

MINORS · DIRECTIVE 2016/800

Summoned minors: the judges went first



June 2019

Arrested minors: lawyer at every interview



Nov 2021

Amsterdam court: summoned minors too

ECLI:NL:RBAMS:2021:6411



Apr 2022

Interim scheme: free youth duty lawyer



July 2024

Council of State: Directive not properly transposed

ECLI:NL:RVS:2024:3083



May 2026

Bill 36 944: into statute, plus vulnerable adults

Kamerstukken II 2025/26, 36 944

Courts 3 · Legislator 1 and the legislator's goal is still awaiting the final whistle

ADULTS NOT ARRESTED · THE (R)ATZ

Summoned adults: somewhere between “no” and “yes”



⏳ **Why the Ratz?** Since 1 July 2021, after the benefits scandal: for people refused legal aid as “self-reliant”. No own contribution. “Temporary”, renewed yearly. *Nothing in the Netherlands is as permanent as a temporary scheme.*

⚖️ **Sub-district court too:** an ATZ from €250 at stake, a full certificate from €500.

PENALTY ORDERS · STRAFBESCHIKKING

A penalty without a judge, but not without a free consult with a lawyer



Dec 2019

At the police station

Arrested, and the prosecutor intends a penalty order: a lawyer before it is issued. Pilot regions first, now nationwide.



1 Apr 2021

Invited to a hearing

Summoned to a prosecutor's hearing on an intended penalty order (art. 257c Sv): a consult before the hearing.



1 Apr 2021

Order by post

Penalty order for a crime sent by the CJIB: a consult within the objection period.



Free advice, no means test, but on request. The suspect has to ask for it, via the duty desk or their own lawyer.

COST RECOVERY FROM CONVICTED SUSPECTS · ART. 43(3) WRB

“Convicted? Then pay your lawyer back.”

1 Mar 2017	In force: after a final conviction, the RvR tests income and assets after all
The bill	Above the limits? The **full** fee, extra hours included, even for a minor count
Evaluation	Costs outweigh benefits; the real target’s money is often invisible to the tax office
Dec 2023	Minister announces abolition
26 May 2025	Suspended: no new recovery claims. Formal repeal needs a Wrb amendment



THE SYSTEM IN 30 SECONDS

Private lawyers, public money, paid by the case



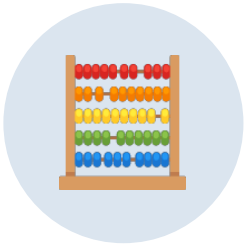
Suspect



Legal Aid Board
Grants the certificate (toevoeging)



Private lawyer
Max 225 certificates a year



Fixed points
Per case type, rate set by the ministry

1 point = 1 hour*

*in theory. The rest of this talk is about the asterisk.

€143.04

per point, excl. VAT, since 1 Feb 2026 (€105.61 in 2017)

High Trust

Covenant with the RvR: certificates issued without prior check, paid fast; audited afterwards

TWO DOORS INTO CRIMINAL LEGAL AID

Either the state sends you a lawyer, or you prove you can't pay one



Door 1 · Ex officio

ambtshalve last / aanwijzing

Trigger: the law, not your wallet. No means test, no own contribution; whole instance (art. 42 Sv)

Suspects: custody or pre-trial detention (art. 40 Sv); detained on other grounds (41(1)); at liberty, by court order (41(2)); minors

Convicted: conversion of community service into detention, TBS/PIJ extension, revoked conditional release

Extradition & EAW surrender: lawyer assigned on the court's order



Door 2 · On request

toevoeging op verzoek

Trigger: insufficient means, tested two years back. 2026: income max **€35,400** single, **€50,000** couple or single parent; assets max €36,952 p.p. Own contribution in criminal cases **€188 – €1,015**

Typical: summoned suspects, objection to a penalty order, cassation, art. 12 complaints, compensation after detention

Non-residents too: if the case is in the Netherlands; means shown on the Income & assets form (or EU form) plus evidence

Hurdle: refused if the case is light or you are "self-reliant" (then: Ratz)

THE DUTY LAWYER SCHEME · PIKET

Arrested at 3 a.m.? Your lawyer hears about it at 7.



Arrest
Police notify the RvR



Central desk
Roster or preferred lawyer



Duty lawyer
To the station: consult, interview

142,640
duty calls in 2025, of which 102,647 criminal and 24,062 juvenile

2 shifts
a day: 07:00–13:30 and 13:30–20:00

07:00
calls between 20:00 and 07:00 are held until the morning

2 hrs
to get to the suspect



Minors may spend the night at home and report to the police station the next day.

QUALITY GATE 1 · LEGAL AID BOARD (RvR)

Legal aid lawyers must qualify, train and stay active

5 — **Criminal law**
supervised cases to get in
Stay: 15 cases + 10 points a year

6 — **Criminal duty roster**
supervised duty cases, 3 up to the investigating judge
Stay: keep the criminal registration

12 — **Juvenile criminal law**
juvenile points + 3 supervised cases + 3 yrs' practice
Stay: 6 cases + 8 points a year

 — **Juvenile duty roster**
juvenile registration + duty course
Only these lawyers may assist minors

TRAINING REQUIRED

🎓 **Entry**
Bar course with criminal law, or RvR course (≤3 yrs)

🚨 **Duty roster**
Duty course (≤3 yrs), not needed after the Bar's criminal major

🧒 **Juvenile**
12 juvenile-law points in 3 years

🔁 **Keep up**
10 pts/yr (juv. 8) + update course every 2 yrs

👋 **Intro**
RvR introduction session for newly registered lawyers

QUALITY GATE 2 · NETHERLANDS BAR (NOvA)

33 practice areas on the menu. Pick up to four.



1–4

areas, registered after the traineeship, out of 33



10

legal training points a year per area, within the 20-point duty



1

public search engine built on it: “Zoek een advocaat”

The Bar register says what you do. The Legal Aid Board decides whether the state pays you for it.

INTERPRETERS · THE CURRENT PROBLEM

Lost in translation

C1 INTERPRETER

“My client invokes his right to remain silent.”

B2 INTERPRETER

“He says… he has the right to be quiet room?”

📘 **The rule:** police, prosecution and courts must use sworn interpreters from the register (art. 28 Wbtv)

📉 **Lower bar:** since 2020 the register also admits B2, not only C1

📦 **Outsourced:** courts book via a commercial agency since Feb 2024; hearings postponed

💶 **Pay:** after a strike, minimum €55 an hour (2023); now €59.53

Illustration, not a real transcript

IN SHORT · THE ORGANISERS' THEMES

The Netherlands, theme by theme

Early access	Free lawyer for arrested suspects and minors, at trial when needed, and a free consult on a penalty order
Availability & coverage	One national duty desk; a lawyer at the station within two hours
Independence	Private lawyers, paid through an independent Legal Aid Board
Quality & competence	Two gatekeepers: RvR entry rules and the Bar register
Time to prepare	Fixed fees, extra hours for complex cases, and the full case file digitally (Mijn Strafdossier)
Interpreters & experts	Lost in translation
Continuity	The duty lawyer usually stays on the case
Remuneration	Fees restored and raised after two independent reviews
Eligibility	Free when detained; a clear income test otherwise