

SPECIALIZATION OF LAWYERS IN THE NETHERLANDS

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1. Specialization of lawyers ("advocaten") in the Netherlands is not based upon formal rules, but upon private initiative. This private initiative has, however, led to some formalization.
2. The first private initiatives started about 15 to 20 years ago. A need for specialization, both in practice and in education, was felt. Lawyers specialized in specific areas started so-called "specialization associations". These were private associations. The initiative came from the lawyers themselves, not from the Bar Association.
3. Although each specialization association has developed in its own (private) way, there are certain characteristics in the development which are common to all:
 - a) It is only possible to become a member of a specialization association if the lawyer has a large practice in the specific area. The criteria vary, but generally a practice of more than 50% is required.
 - b) The lawyer must have been practising (in general) for a certain period of time. The usual requirement is 6 years or more. Sometimes lawyers with less experience, but with a specialized practice, are accepted as candidate members.
 - c) The lawyer has to follow a specialized education course. This varies per association, but generally the required courses are intensive courses with a duration of approx. 6 months to 1 year (at a full day's course per fortnight), ending with an exam.

- d) Some associations have even started to develop their own code of conduct and their own disciplinary procedures.
4. The development of the specialization associations was strongly boosted by the introduction of the permanent education obligation in the Netherlands in 1996. Since then Dutch lawyers have to score a certain amount of permanent education points per year. This is only possible by following or giving education at a recognized education institute. All specialization associations applied for (and received) such recognition and/or had connections with such institutes for their specialist courses.
 5. The recognition as "education institute" is given by the Bar Association. In that way the associations, which started as a private initiative, became subject to certain rules (albeit only concerning education). At the same time, the Bar Association increasingly supported the specialization associations (not financially, but as part of a legal services system, whereby services are increasingly rendered by specialized lawyers).
 6. Another development is, that for legal aid matters the authorities responsible for the distribution of legal aid have increasingly – since approx. 10 years ago – required that lawyers are specialized in specific areas (or at any rate have followed of a specialized course in a specific area) to qualify for legal aid work in such areas. In such a way, specialization has also become a formal requirement and is no longer just a private initiative. Examples are criminal matters, social security, immigration and (political) asylum, but this is spreading to other areas as well.
 7. There is another development in the insolvency practice. Courts, appointing liquidators/receivers, are requiring specialization. In practice, this means that the courts are increasingly only appointing members of the insolvency specialization association as liquidator/receiver.

A similar development seems to be on its way concerning court appointed lawyers in juvenile criminal matters.

8. At this moment there are the following specialization associations: family law, personal injury, insolvency law, social security, criminal law, transport, leasing/tennancy, construction law, compulsory purchase of real property, environmental law, collection, farming and agricultural law, tax law, information technology, mediation, immigration, (political) asylum and several regional specialization associations for employment law. Their organization, education requirements and membership requirements can differ considerably, varying from very strict (e.g. insolvency, family law and personal injury law) to quite lenient (most of the employment law associations).
9. In the Netherlands there is no accreditation scheme. I.e., there is no formal authority giving official recognition of a specialization. There are also no general or bar rules in that respect. The only existing rule is a provision in the Bar Association Regulation on publicity which states that – in publicity – a lawyer is not allowed to state or pretend a specialization or expertise unless he reasonably has such specialization or expertise based upon his education/knowledge and experience. If so required, the lawyer himself will have to prove that he has sufficient expertise.
10. The generality of the abovementioned rule means that a lawyer in the Netherlands can call himself a specialist – and, e.g., put this on his business card or notepaper - without any formal restriction. There are no formalities and no defined legal areas. The only restriction is that in the end the lawyer will have to show his expertise if there are doubts thereon.

In practice, the only expertise shown on business cards or notepaper, is the mentioning of the membership of a specific specialization association. That, in itself, at any rate guarantees that the lawyer in

question meets the requirements of that association. This is not common practice, but it is being done more and more.

11. It is still unclear what the future will bring. On the one hand, there is the continuous drive for more quality, which usually is deemed to coincide with more specialization. This drive comes both from government and from clients as well as from the Bar Association itself. On the other hand, there is a certain reluctance to go further than the present private initiatives, in combination with official recognition in some respects. The main fear is that further specialization will lead to an erosion of (the quality of) the general legal practice and the flexibility of lawyers. Personally, I believe that it is important to preserve the general legal practice and the lawyers' flexibility, not just for lawyers themselves, but especially for their clients.