9 Access to Justice or Excessive Litigation? No-Cure-No-Pay Representation in Administrative Disputes

Marc Wever, Heinrich Winter and Bert Marseille

1 Introduction

Access to justice is a cornerstone of a functional legal system and is essential for the enforcement of individual rights, the prevention of injustices, and the promotion of societal trust in legal institutions (OECD, 2025). Legal aid, a mechanism that provides low-cost or free legal assistance, plays a critical role in achieving this accessibility, particularly for marginalised and low-income individuals. Access to justice encompasses not only the right to initiate legal proceedings but also the ability to do so without facing prohibitive financial, procedural or informational barriers (Rhode, 2004).

While few would argue against the importance of access to justice and affordable legal aid, the legal system is a very costly social institution. Universal access to justice has its downsides. For some areas of law, considerable effort and expenses are devoted to it, leading to an amount of litigation that is deemed *socially* excessive (Hoadley, 1992).

In the Netherlands, the no-cure-no-pay (NCNP) legal aid model has become increasingly common, particularly in administrative cases involving property tax assessments (WOZ) and motor vehicle tax (BPM). Under this model, legal aid providers charge clients only if they win the case or secure a favourable outcome. In these cases, the client is entitled to a process cost reimbursement awarded by the administrative body or the administrative court the legal aid provider of which gets his share. The NCNP structure can lower the financial barrier for individuals who cannot afford upfront legal fees, making it a popular choice for lower-income claimants. In that respect, NCNP enhances access to justice by enabling more individuals to pursue legal claims without immediate financial risk, thereby democratising access to legal representation in administrative disputes (Van Velthoven & Van Wijck, 1996). Despite these benefits, NCNP companies

active within WOZ and BPM objections and appeals are perceived primarily as misusing the system by using procedural tools to maximise process cost compensation rather than primarily serving client interests.

The Dutch government and legal bodies do not perceive NCNP companies as a useful service to clients but as a system exploitative model, even to the point of accusing these firms of abusing procedural rights (Minister for Legal Protection, 2021). The NCNP system, while intended to lower barriers for citizens disputing tax valuations, it is said, has instead incentivised litigation for fee recovery rather than genuine tax disputes. NCNP representatives are often accused of prioritising litigation to collect procedural cost reimbursements and compensation for court delays rather than revising valuations. The sharp rise in objections and appeals in WOZ and BPM cases led the government to reduce reimbursement amounts, as the influx of cases has extended court wait times and overwhelmed judicial resources with repetitive, low-merit claims.

The legislature argues that NCNP agencies frequently use procedural tactics to maximise reimbursements, such as filing appeals primarily to generate fees or delaying information sharing to force additional legal steps. The reimbursements paid out arguably do not align with the actual costs and effort involved. Research highlights that hearings typically last less than 5 minutes per object, are often conducted remotely or in writing, and that objections can largely be automated or generated using standard texts. Additionally, there are no educational or quality requirements for employees handling these cases (WODC, 2021).

In 2023, legislation was introduced in the Netherlands to address these assumed imbalances. It amends laws generating the highest numbers of NCNP objections and appeals, primarily by reducing procedural reimbursements. Standard reimbursement rates in WOZ and BPM cases were reduced by a factor of 0.25, lowering financial incentives for bulk filings. The law also caps 'immaterial damages' for court delays at €50 per 6 months to remove incentives for extending litigation timelines artificially. Additionally, the legislation mandates that any awarded reimbursement be paid directly to the claimant rather than the NCNP agency, ensuring that claimants more carefully consider hiring an NCNP firm. This measure aims to reduce non-merit cases by encouraging claimants to engage more in their appeals and understand the financial implications of using NCNP agencies.

In this chapter we discuss the inherent tension between the promotion of access to justice and the prevention of excessive litigation. Our primary research question is the following: which consequences of the fight against excessive litigation by NCNP firms are highlighted in the debate surrounding this topic? We distinguish between the legal consequences; the consequences for the private incentives

to use NCNP companies, the consequences for the public benefits of NCNP representation, and, finally, the consequences for the social costs of NCNP firms. We focus on the current debate surrounding the role of NCNP companies in administrative law procedures related to property and motor vehicle valuations.

This chapter is structured as follows. In Section 2 we present our analytical framework. In Section 3 we discuss our data and methodology. In Section 4 we discuss our results. We end our chapter with a short discussion and conclusion (Sections 5 and 6).

2 Analytical Framework

2.1 *A Law and Economics Perspective*

Considering that financial considerations are central to the debate on excessive litigation, a law and economics perspective is valuable as a lens through which to examine this issue. Shavell (1981), among others (Croley, 2017; Levy, 2013; Miceli, 1994; Rasquin, 2021; Rubinfeld & Polinsky, 1988), has argued that the level of litigation is often socially suboptimal due to the disparity between private and social incentives to seek access to the legal system. A primary cause of this divergence is the difference between the private and public costs associated with litigation. When individuals decide to pursue legal action, they typically consider only their own anticipated private benefits – such as the likelihood of compensation or a favourable outcome – without accounting for the broader social costs of their claims (Shavell, 1981).

These social costs include not only the expenses borne by the litigants themselves (time, money and effort that could be spent on something else) but also costs incurred by the state, courts and administrative bodies caused by the legal claim. According to Shavell, this neglect of social costs leads to excessive litigation, especially when private benefits (like awarded damages or reimbursed fees) are high relative to the personal costs of bringing a suit. In cases where personal costs are negligible, as when access to justice is free, even modest potential gains can suffice to motivate legal action.

Shavell describes this tendency of litigation to generate private gains without equivalent social benefit as a 'negative externality'. For example, when a party files a claim (such as an objection or appeal against a WOZ decision), it usually bears only direct legal expenses, disregarding the additional costs imposed on administrative bodies and the court system. This discrepancy creates a bias towards excessive litigation because the private costs incurred by litigants do not reflect the full social costs.

The perceived benefits of litigation further diverge between private and social incentives. For instance, in the context of property valuation disputes, administrative bodies might be expected to invest in the quality of their decisions, improving valuation accuracy, or to promote alternative, informal dispute resolution methods. Such improvements would benefit all citizens who are subject to valuation decisions. However, these additional benefits are rarely a factor in an individual's decision to file suit; rather, claimants are typically motivated by the prospect of personal compensation.

2.2 Access to Justice

Access to justice means that individuals have the means to seek redress and hold others accountable under the law (OECD, 2025). All citizens, regardless of their financial status, knowledge and experience, should be able to effectively challenge decisions that affect their rights. Financial barriers should not prevent individuals from accessing courts, and the legal procedures available should provide timely, meaningful remedies, ensuring that rights are practically, not merely theoretically, enforceable.

While access to justice is vital for upholding the law and serving public welfare, excessive access to justice can strain judicial resources, potentially limiting access to justice for others by overburdening courts and administrative bodies. Effective policy measures should control excessive litigation without inadvertently obstructing valid claims. Policies implemented to combat excessive litigation always risk discouraging not only frivolous cases but also legitimate grievances. For example, in property tax disputes, limited access to representation may discourage individuals from challenging inaccurate valuations, thus restricting access to justice for people with valid concerns.

Deterrent measures that aim to limit litigation must therefore be carefully designed to avoid creating barriers to court access for financially vulnerable individuals or those who depend on NCNP representation. Perceiving justice as accessible only to those who can afford it could erode public confidence in the system (Rhode, 2004). Policies providing access to justice should ensure that cases with genuine merit are encouraged, while clear guidelines should deter frivolous claims. Without this distinction, deterrent measures could unintentionally restrict access for individuals with legitimate grievances, undermining the purpose of the legal system.

In addition, the legislature is not allowed to violate the principle of equality. In essence, the legislation enacted in 2023 poses additional constraints on NCNP agencies that are not applied to other areas of administrative law and to legal representatives that do not operate on a NCNP basis. This distinction is

allowed only if there is an objective and reasonable justification for the difference in treatment. However, this requirement does not mean that the assumption underlying the distinction must be empirically proven or later confirmed as fact. Instead, the assumption must be sufficiently realistic for the decision maker to have reasonably based the regulation on it.

3 Results

Our analysis is based on earlier empirical research into the consequences of NCNP litigation. We therefore rely primarily on an analysis of secondary sources. These studies, mostly commissioned by the Dutch government, used both qualitative (focus groups and interviews conducted with practitioners across legal domains) and quantitative research methods (Geertsema et al., 2024). In the remainder of this chapter we focus on the role of consequences in driving the efforts of the legislature to combat NCNP legal representation in WOZ and BPM cases. We distinguish between the legal consequences; the consequences for the private incentives to use NCNP companies; the consequences for the public benefits of NCNP representation and, finally, the consequences for the social costs of NCNP firms.

3.1 Legal Consequences: Violation of the Principle of Equal Treatment?

So far, two legislative attempts have been made to combat the business model of NCNP agencies. Both, in essence, argue that there is a reasonable basis for treating NCNP firms differently from other types of legal aid providers in terms of the amount of procedural reimbursement they should receive for their services.

It is not surprising that NCNP representatives have raised the issue of unequal treatment in reaction to legislative efforts enacted to undermine their business model. If such an issue is raised, the courts (and the Supreme Court in last instance) must determine whether the legislature could have reasonably assumed that the cases treated differently were not, in fact, equal for the purposes of the regulation. If they are equal, an objective and reasonable justification for the difference in treatment must be provided (HR 12 June 2024, ECLI:NL:HR:2024:1060). In the first legislative attempt, the justification for the distinction between NCNP firms and 'regular' legal aid providers active in other areas of administrative law is, as stated in the explanatory memorandum, based primarily on complaints and concerns from (Tweede Kamer, 2023-2024).

However, as the Supreme Court states, the memorandum does not provide any concrete evidence to assess the validity of these concerns, especially regarding appeal and higher appeal costs. Additionally, the reasoning appears inconsistent

with the general policy on legal cost reimbursements. The memorandum itself states that increasing reimbursements in other areas of administrative law was intended to encourage administrative bodies to improve their decision-making and reduce unnecessary litigation. Yet in WOZ and BPM cases, the opposite approach was taken, without a clear explanation of why similar considerations do not apply. All in all, the Supreme Court ruled that the amendment of the BPB was in violation of Article 1 of the Constitution and could therefore not be applied by municipalities and courts.

In 2023, as we mentioned in the introduction, a second attempt was made by the legislature. This time an Act of Parliament was introduced to combat NCNP firms. The Act amends laws generating the highest numbers of NCNP objections and appeals, primarily by reducing procedural reimbursements, capping 'immaterial damages' and mandating that any awarded reimbursement be paid directly to the claimant rather than the NCNP agency, ensuring claimants carefully consider hiring an NCNP firm.

In January 2025 the Supreme Court again ruled on the question of whether these distinctions are compatible with international treaties and European Union law (HR 17 January 2025, ECLI:NL:HR:2025:46). This time, the Supreme Court has ruled that they are. According to the Supreme Court, the legislature introduced these restrictions with specific cases in mind – particularly those in which legal assistance is provided under an NCNP arrangement. The business model of these legal service providers is often based on securing legal cost reimbursements that significantly exceed the actual expenses incurred. This time the need discrepancy was supported by sufficient empirical evidence.

These restrictions are intended to prevent legal cost reimbursements from becoming so excessive that they undermine the principle that such reimbursements should serve only as a contribution toward actual legal expenses. This is a very different reason than stated earlier. However, as a result, the Supreme Court emphasised that the restrictions do not apply to cases where legal aid clearly does not follow this model. More specifically, the new rules cannot be applied if proceedings are not conducted on an NCNP basis; if no arrangements are made with the clients that the amount of any reimbursement of legal costs is paid to the attorney or to the office, and if the proceedings are not conducted in such a manner that the reimbursement of legal costs awarded far exceeds the reasonable costs incurred. Concerning the final criterion, the Supreme Court specifically mentions the use of standardised grievances that are not unique to the case at hand.

Given this limitation in scope, the Supreme Court concluded that the legislature did not impose restrictions beyond what was necessary to achieve the intended objective. The restrictions are based on an objective and reasonable justification and, therefore, do not conflict with international treaties or European Union law.

However, NCNP firms are entitled to the same reimbursements as other legal representatives if the proceedings are not conducted in such a manner that the reimbursement of legal costs awarded far exceeds the reasonable costs incurred. This requires courts and administrative bodies to assess on an individual basis whether this is the case or not, and, of course, as this concerns the application of a rather vague criterion, could lead to even more procedures about cost reimbursements.

3.2 Consequences for The Private Incentives to Use NCNP

The private benefits of challenging a tax decision through an NCNP company are rooted in financial relief, ease of process, and perceived expertise in handling valuation disputes. A study of the ways NCNP agencies operate (commissioned by the Ministry of Justice and Security), based on a questionnaire aimed at users of NCNP firms (n = 490), shows that a substantial proportion of individuals (73% of those using NCNP services and 84% of self-represented litigants) pursued an appeal because they believed the municipal property valuation (WOZ value) was too high, directly impacting their tax burden (WODC, 2021). For 35% of respondents, the impact of WOZ valuation on other taxes (e.g. income and property taxes) was a significant motivator, highlighting the potential ripple effect of a high property valuation on multiple financial obligations. A notable percentage (31% of independent challengers) felt the rationale behind valuation increases was unclear, prompting them to challenge what they perceived as unwarranted tax hikes.

On the question of why people choose to 'hire' an NCNP firm, many respondents (43%) found it easier to use NCNP services than to file an appeal independently. Around 36% stated they lacked an understanding of municipal valuation methods, and 26% reported feeling distrustful of municipalities, believing they would receive fairer treatment through NCNP representation.

Because assistance is provided on an NCNP basis, there are no private costs associated with hiring an NCNP firm. In fact, much of the effort usually required to pursue an objection or appeal is lower when hiring a NCNP firm, as it provides legal expertise, an appraiser if needed, writes (or, at the very least, works on) the notice of objection/appeal, shows up at the hearing, etc. Therefore, in general, the questionnaire results indicate that many claimants expect higher rewards at reduced costs.

It is clear that the legislation will likely do very little in terms of the private incentives to use NCNP services. The legislation does not include instruments that make filing an objection by themselves easier, to increase understanding of municipal valuation methods, or to enhance the level of trust in municipalities.

As many people believe they would receive fairer treatment through NCNP representation, it seems unlikely that the adopted measures will reduce the demand for NCNP services. If, however, the reduction in reimbursement fees means that NCNP firms are forced to cherry pick the 'sure thing' cases, this means that people who perhaps have a legitimate but not clear-cut case would likely have to litigate without the support of NCNP firms. It can be argued that legal representation in those cases is the most beneficial to litigants and access to justice, as the chance of success depends on the quality of the arguments to a greater extent than in hopeless (which will be lost either way) or sure thing cases (which would be won either way).

So what are the likely consequences to the private incentives to use NCNP assistance? Mandating that reimbursement fees are paid directly to the citizen aligns well with Shavell's idea of making the private costs of litigation more transparent to the claimant, who must assess the value of pursuing legal action more critically. Although the measure might create some disincentives for frivolous claims, it could also undermine access to justice by placing an additional administrative burden on claimants, many of whom may not have the legal literacy or resources to pursue claims without NCNP support. This approach, perhaps unrealistically, assumes that claimants are fully equipped to understand legal complexity and financial implications (Robertson & Giddings, 2014). Consequently, legitimate claims may be abandoned simply due to procedural complexity, which conflicts with the goal of facilitating access to justice.

3.3 Consequences for the Public Benefits of NCNP Representation

The public benefits of NCNP firms active in the WOZ and BPM disputes have received far less attention in the public debate. Those emphasising positive effects are often commercially involved in the field themselves (Van Rosmalen, 2022). They claim that they offer individuals a risk-free way to challenge potentially inflated property valuations without upfront costs. Because fees are charged only if the appeal is successful, the model enables individuals, especially those who might otherwise lack resources or knowledge, to participate in the legal process without financial strain. Thus, NCNP firms indirectly enhance access to justice, providing a legal pathway for those who might otherwise forego appeal due to cost concerns.

Proponents of NCNP firms claim that they do not engage in frivolous litigation, as these firms perform a pre-evaluation of cases before proceeding, filtering out cases where the potential reduction in tax liability is minimal (Hoeben & Toolsema, 2021). Firms generally examine available public data and property characteristics to assess whether a valuation is likely to be inflated before initiating an objection or appeal. If the expected correction in property value is too minor to justify the

litigation costs, the firm declines the representation. This pre-evaluation process, which can result in 10%-60% of cases being screened out, helps to maintain a certain threshold of merit in filed cases, which theoretically aligns with efficient court use. It must be said that the factual basis for these claims has never been examined.

NCNP firms further argue that their work keeps municipalities accountable and exposes procedural flaws in property valuations (Geertsema et al., 2024). In principle, the model should encourage municipalities to improve their assessment accuracy. If NCNP firms consistently challenge valuations and win cases, this could serve as a corrective mechanism that prompts municipalities to refine valuation methods, improve their own service provision to citizens and better explain their valuations, benefiting not only those who object and appeal decisions but also other taxpayers indirectly.

3.4 Consequences for the Social Costs of NCNP Firms

The success of the NCNP model – at the very least in attracting customers – has resulted in significant social costs. WOZ- and BPM-related litigation comes with significant public spending on procedural cost reimbursements and administrative expenses for handling objections and appeals. Municipalities face costs not only from the required reimbursement of legal fees, but also from timely managing the volume of objections and appeals. Furthermore, administrative courts claim that the influx of NCNP-led cases has created a backlog in tax courts, as documented in the Dutch Judiciary's 2023 annual report (De Rechtspraak, 2024). The report indicates that NCNP cases delay rulings in higher-priority cases, crowding the system with tens of thousands of additional appeals. This congestion results in longer wait times for all cases, which reduces access to timely justice for citizens involved in socially more significant legal matters. Administrative authorities and courts clearly feel that the amount of litigation is socially excessive. Administrative authorities even go so far as to state that the number of appeals prevents them from improving their own decision-making processes and accuracy, because considerable time, effort and manpower is utilised in handling the large number of objections and appeals.

It is clear that the social costs of NCNP litigation are strongly related to the number, not the complexity, of cases. Lowering the standard reimbursement rates for WOZ and BPM cases theoretically decreases private incentives for NCNP firms to bring forward claims. However, NCNP firms could respond by increasing case volume to maintain profitability by filing more low-effort claims rather than fewer high-merit ones. This could lead to an increase in litigation volume, further straining the court system and potentially worsening backlogs. Moreover,

this approach does not necessarily encourage firms to focus on high-merit cases; instead, it merely makes each case less profitable, possibly resulting in lower-quality representation and an even greater reliance on automated or bulk filing practices to maintain viability.

By capitulating on reimbursements for damages due to court delays, the government aims to reduce the financial incentive for extending litigation timelines, a practice some NCNP firms might exploit. However, the cap may inadvertently penalise claimants who have valid claims but must endure delayed proceedings. The administrative and court system, rather than the claimant, is responsible for such delays, so capping damages due to slow court timelines could disproportionately affect genuine cases. Furthermore, rather than addressing NCNP firms' behaviour directly, this measure impacts claimants, who may now have to bear part of the cost of delayed justice, creating a disincentive for valid claims.

3.5 One-Sided Focus on Public Costs

In sum, although the measures tackle some aspects of private incentives to use NCNP firms, they appear less targeted at systemic reforms that might create a more effective balance between private benefits and social costs. A more balanced approach would include measures for reducing incentives for NCNP litigation and enhance mechanisms that promote only genuine claims.

For instance, instead of blanket reductions, the government could introduce differential reimbursement based on claim merit or stricter guidelines and eligibility assessments for NCNP firms. This approach may target low-merit cases more effectively without penalising valid claims. The system already offers these options to administrative bodies and courts, but they are rarely used.

Moreover, by focusing primarily on reimbursement reductions, the government might inadvertently shift litigation incentives without necessarily improving administrative decision-making accuracy, thereby contributing to litigation volume. If the decision-making quality at the administrative level can be improved, fewer cases might require litigation, thus reducing the strain on judicial resources without limiting access to justice. This aligns more closely with Shavell's principle of addressing the root causes of excessive litigation.

4 Discussion

A dominant narrative has emerged in the debate over NCNP firms, portraying administrative bodies and courts as overwhelmed by a surge of low-merit cases

that offer minimal direct benefit to citizens. In this view, citizens are perceived as instruments in generating objections and appeals, and their interests are often overshadowed by the financial motives of their representatives. Critics of NCNP firms argue that reimbursements awarded under this model are disproportionate to the services provided, which largely consist of standardised grievances filled by underqualified personnel. In essence, NCNP firms are portrayed as leeches, injecting themselves into disputes where their presence serves no real purpose, in order to capitalise on the inherent flaws in the system.

After several earlier attempts, the legislature has finally managed to enact lawful legislation that curbs cost reimbursements for NCNP parties active in WOZ and BPM cases, albeit not to the extent that was envisioned. Interestingly, the Dutch Supreme Court ruled that the reimbursement reduction was acceptable, simply because the system of reimbursement was never intended to offer more than a (partial) reimbursement of costs. In essence, this means that NCNP firms are being punished for being too efficient.

This focus on the 'improper use' of the system – propagated mainly by administrative bodies – misrepresents the full picture, neglecting the genuine need for accessible legal pathways for citizens and the fundamental principle of access to justice. The positive aspects of NCNP firms are rarely highlighted in the discourse. The use of new business models, automation, artificial intelligence and efficient processes has enabled these firms to offer affordable and accessible legal representation to a large number of citizens. Many individuals file objections and appeals with NCNP support, and, importantly, they frequently succeed in securing favourable outcomes.

So far, little attention has been paid to the systemic issues that drive the number of legal challenges in the first place. These issues include large tax hikes, inconsistent decision quality, inadequate justifications for assessments, complex appeals processes, limited informal communication channels with authorities and a system heavily reliant on estimations. Furthermore, the relatively high rates of case annulments indicate underlying weaknesses in administrative decision-making. Another systemic issue is concerned with the way judges assess reimbursement rules. Although procedural cost reimbursement rules allow for fee moderation, judges rarely exercise this discretionary power, and when they do, such decisions are often overturned by higher courts.

The market for potential NCNP clients remains substantial, with over 8.5 million traffic fines issued annually and more than 7 million domestic properties subject to the WOZ (property tax) assessments in 2020 alone. Even if the payouts per successful case are moderate, the high success rate renders this model viable,

albeit possibly only for the largest, most innovative NCNP firms. However, if reimbursements are reduced, NCNP firms may be compelled to increase the volume of cases they handle to maintain profitability, potentially resulting in less time and attention devoted to each case. This would likely disadvantage clients, diminishing the quality of legal representation they receive. However, since it is still a free service, it is unlikely that this would deter them from soliciting the services of NCNP firms. Should NCNP firms exit the market entirely, the accessible, low-cost legal representation they provide would disappear as well. Many people do not qualify for subsidised legal aid, and the material outcomes at stake are often too moderate to warrant hiring an (expensive) legal expert or appraiser.

A 'jurisprudence of consequences' underscores the significance of examining the broader impact of judicial and administrative decisions, especially on access to justice. Public costs, public benefits, private costs and private benefits, are, ideally, all considered when discussing measures that might negatively impact access to justice. In the context of NCNP firms, only one dominant perspective has really emerged: the framing of these companies as 'cowboys' exploiting the legal system at the expense of society. Issues within the system itself are rarely if ever considered. Current decision-making and dispute resolution structures lack the robustness to manage unexpected increases in case volume effectively, highlighting, in turn, a failure to innovate or adapt to evolving needs of users. Rather than leveraging the insights gained from these challenges to improve the system for everyone, authorities rather focus on limiting forces that test its boundaries.

The dominant narrative of 'improper use' and even 'abuse' legitimises a restrictive stance towards NCNP firms, despite their demonstrable value in enabling all citizens to challenge administrative decisions with the help of a legal professional. This framing is uncomfortable, as it implies that legal assistance in low-value, high-volume areas of law, where traditional forms of legal assistance are unavailable or not economically viable, is under threat. While the importance of access to justice is often mentioned in policy discussions, little thought is given to the question of how it is to be ensured while simultaneously trying to curb excessive litigation.

This analysis suggests a need to reframe the discussion surrounding NCNP firms and their role in administrative litigation. Rather than restricting their operations, administrative bodies, courts and legislators should explore ways to enhance the legal systems resilience, encourage transparency in administrative decision-making, and ensure that citizens gain practical, accessible avenues for challenging decisions that impact their rights and interests.

While a focus on the consequences of law can offer important insights, it also has significant limitations. Emphasising measurable outcomes like budgetary savings or case volume often undervalues benefits that are harder to quantify, such as public trust in legal institutions or the symbolic value of fairness. In the section on public benefits, for instance, claims that NCNP firms enhance access to justice are acknowledged but remain underexamined, partly because such benefits are more difficult to capture in numbers. Second, even if all or nearly all relevant consequences can be measured and described objectively – such as quantifiable costs or caseload statistics – deciding which consequences are emphasised, and how they are framed, is inevitably influenced by normative perspectives. For example, the Supreme Court's validation of reduced reimbursements in NCNP cases was grounded in evidence of disproportionate legal cost claims, but this shifts attention towards financial efficiency rather than fundamental rights such as equal access to legal representation. Lastly, when the power to define and evaluate consequences lies predominantly with governmental actors – as in the studies commissioned by the Dutch state or the justifications based on municipal complaints – there is a risk that certain values or stakeholder experiences are sidelined. This imbalance may produce policy outcomes that entrench existing institutional biases, such as discouraging complex but legitimate claims, while privileging administrative convenience. Thus, consequence-based evaluation of law, while informative, must be critically assessed for what it excludes and whose interests it serves.

5 Conclusion

In conclusion, the debate surrounding the NCNP model in Dutch administrative litigation underscores a complex balance between enhancing access to justice and mitigating the risks of excessive litigation.

While NCNP arrangements provide essential legal support to individuals who might otherwise be unable to afford representation, or in situations where the stakes are relatively low, such as in property tax disputes, they have also led to significant increases in administrative and procedural costs. The Dutch legal system now faces a dual challenge: safeguarding access to justice for citizens with legitimate grievances while implementing measures to curb the potential for misuse of the NCNP model. Policies should strive for a nuanced approach that preserves the essential benefits of NCNP in democratising legal access while addressing procedural abuses that burden courts and administrative bodies. Ultimately, these reforms must weigh both individual and societal interests carefully to ensure that access to justice remains robust and equitable, avoiding unintended barriers that could limit the public's trust in the legal system.

References

Croley, S. P. (2017). *Civil justice reconsidered: Toward a less costly, more accessible litigation system*. New York University Press.

De Rechtspraak. (2024). *Jaarverslag de Rechtspraak 2023*. https://www.rechtspraak.nl/SiteCollectionDocuments/Jaarverslag%20Rechtspraak%202023.pdf.

Geertsema, B., Marseille, A. T., Roest, S., Wever, M., & Winter, H. B. (2024). *Onderzoek naar 'oneigenlijk gebruik' van bestuursrechtelijke procedures met het oog op proceskostenvergoedingen. Op (proces)kosten gejaagd?* Pro Facto.

Hoadley, W. E. (1992). Excessive litigation – Negative force in the economy. *Business Economics, 27*(4), 9-14.

Hoeben, C., & Toolsema, L. (2021). *De hoogte en de structuur van de kostenvergoeding voor bedrijven die helpen bij het maken van bezwaar tegen WOZ-beschikkingen*. Centrum voor Onderzoek van de Economie van de Lagere Overheden.

Hoge Raad. (2024, June 12). *ECLI:NL:HR:2024:1060*.

Hoge Raad. (2025, January 17). *ECLI:NL:HR:2025:46*.

Levy, M. K. (2013). Judging the flood of litigation. *The University of Chicago Law Review, 80*(3), 1007-1077.

Miceli, T. J. (1994). Do contingent fees promote excessive litigation? *The Journal of Legal Studies, 23*(1), 211-224.

Minister of Legal Protection, Bijlage bij brief van de minister voor Rechtsbescherming van 12 februari 2021, 3203606. (2021).

OECD. (2025). *Recommendation of the Council on Access to Justice and People-Centred Justice Systems*, OECD/LEGAL/0498.

Rasquin, C. (2021). Unlocking legal gridlock in high-income countries: How excessive litigation hampers growth and harms democracy. *Law and Development Review, 14*(2), 665-688.

Rhode, D. L. (2004). *Access to justice*. Oxford University Press.

Robertson, M., & Giddings, J. (2014). Self-advocates in civil legal disputes: How personal and other factors influence the handling of their cases. *Melbourne University Law Review, 38*(1), 119-150.

Rubinfeld, D. L., Polinsky, A. M., & National Bureau of Economic Research. (1988). *The welfare implications of costly litigation in the theory of liability*. National Bureau of Economic Research.

Shavell, S. (1981). *The social versus the private incentive to bring suit in a costly legal system. National Bureau of Economic Research.*

Tweede Kamer. (2023-2024). *Vergaderjaar 2023–2024, 36 427, nr. 3*.

Van Rosmalen, P. L. J. A. (2022). Een ongemakkelijke waarheid: bezwaar via de WOZ-adviseur is succesvoller en meestal noodzakelijk. *Belastingblad, 2022*/216.

Van Velthoven, B. C. J., & van Wijck, P. (1996). *De economie van civiele geschillen: Rechtsbijstand versus no cure no pay*. Rijksuniversiteit Leiden, Faculteit der Rechtsgeleerdheid, Vakgroep Economische Vakken.

WODC. (2021). *Van beroep in bezwaar. Werkwijze en verdienmodel 'no cure no pay' bedrijven WOZ en BPM*. WODC.