

Draft classification of legal services, excluding jurisdiction (ISIC 89.11)

1. Methods and justification

Since no elaborated theory for a standard classification of services was available when the working group started, the members spent some time on theoretical aspects.

It will be clear that in dealing with projects like this, the most sensible approach is working out the theoretical base first and carrying out the practical work later on, while trying to reach the theoretical ideal as close as possible.

At the same time it is obvious that, considered the possible aims for standard classifications such as comparability between a number of statistics and utility for a large number of applications by using criterions, the available time was too short to investigate these aims and applications properly. In addition to this no rules have been formulated as to how detailed the classification should be and no undisputed applications have been determined. Therefore the working group chose a pragmatical approach.

This classification is primarily intended for the international co-operation project and contains nothing more than an enumeration of services for each ISIC-group. With such a classification, any legal service can be classified under some item. A few (special) criteria (i.e. the general use made of the products by final consumers) functioned as starting point for constructing the classification, in addition to the experience gained from business surveys, conversations with company representatives in the past and the literature.

The items of the classification are meant as building blocks for a future Dutch classification in which groups of items will be formed according to a number of economic criteria (such as destiny, origin, structure of costs in the production process). It will be difficult or impossible to collect data on some groups and therefore the classification on the questionnaires will be even shorter.

The aggregates are not meant as the only alternatives in case of a too detailed division on lower levels. Expected problems with regard to the collection of data have had no influence at all.

At the same time the working group was of the opinion that drawing up and using as much theory as possible within the limits of the period was desirable. After the delivery of the report the theoretical basis has to be finished first. After that the classification should be reviewed critically, and some alterations might be necessary. In connection with the limited time available we also had to decide to use the top-->down method for drawing up an exhaustive enumeration. The level of detail of the classification is connected with the time available.

The items found in this classification are linked with the theoretical background as far as possible; in the first instance the buyer of the service is considered to be the main starting point. That's to say: the most frequent use of products is what counts most, together with the question of whether products are transacted together or solely. For instance: in our view legal advice has a different function from a notarial act, and legal assistance concerning criminal law is completely different for the consumer than legal assistance in cases concerning labour conflicts.

2. The classification: legal services, excluding jurisdiction

A. Legal assistance in judicial procedures

A1 Legal assistance in judicial procedures excl. auxiliary services

A1.1 Legal assistance in judicial procedures concerning labour conflicts

A1.2 Legal assistance in judicial procedures concerning social insurance
and provisions

A1.3 Legal assistance in judicial procedures concerning housing issues

A1.4 Legal assistance in judicial procedures concerning government issues

A1.5 Legal assistance in judicial procedures concerning law of persons
and families (incl. marriage,
divorce, inheritance)

A1.6 Legal assistance in judicial procedures concerning other law of
obligations

A1.7 Legal assistance in judicial procedures concerning company law

A1.8 Legal assistance in judicial procedures concerning other subjects of
the civil code

A1.9 Legal assistance in judicial procedures concerning criminal law

A1.10 Legal assistance in judicial procedures concerning other fields of
jurisdiction

A2 Auxiliary services at lawsuits

A2.1 Attorney's services (rendered under order of other lawyers)

A2.2 Other auxiliary services at lawsuits

A2.2.1-A2.2.8 Subdivision according to A1.

B. Legal assistance to statutory procedures other than in court.

B1-B8 Subdivision according to A1.

C. Notarial acts (*documentation*)

C1 Notarial acts concerning assignments (excl. auctions)

C1.1 Notarial acts concerning assignments of real estate

C1.2 Notarial acts concerning other assignments

C2 Notarial acts concerning mortgages

C3 Notarial acts concerning division of property in divorce cases

C4 Notarial acts concerning other divisions of property

C5 Notarial acts concerning establishment or modification of
corporations

C5.1 Notarial acts concerning establishment or modification of
partnerships

C5.2 Notarial acts concerning establishment or modification of
foundations and associations

C6 Notarial acts concerning legacies

C7 Notarial acts concerning marriage-contracts

C8 Notarial acts concerning auctions

C9 Other notarial acts

D. Legal advice and information

D1-D8 Subdivision according to A1.

E. Legal services concerning bankruptcies and suspension of payment

F. Other legal services

Explanatory notes

General

Legal services can be described as services intended to solve legal problems. To render these services, a training in the field of law is indispensable; as a rule this will be university education. Legal services include: assistance to lawsuits and other legal procedures, drawing up notarial acts and giving legal advice concerning legal problems. These services are mostly rendered by the establishments as classified under ISIC grouping 8911, such as lawyer's offices, legal advice centers, notary's offices, bailiff's offices and patent offices (including bureaus for legal advice and free legal advice centres).

Legal services can also be rendered by institutions included under several other ISIC-groups: for instance the Automobile Association, Trade Unions, the Consumers' Association and Social Advisors.

The point is that these institutions are classified elsewhere according to their main activity. Government services, for instance services of the Court of Justice, are left out of consideration. Buyers of legal services can be: private persons, institutions or establishments.

The products mentioned before can be grouped together with services not classified under these ISIC headings. For instance "legal services" would be the main group, consisting of the groups "jurisdiction", "legal aid" (A en B) and "other legal services" (C,D,E).

Divisions

Assistance in lawsuits, legal aid, notarial acts and other legal services obviously include legal advice. However, legal advice exists as an independent product too.

A. Legal assistance in judicial procedures.

This item concerns advice and representation in judicial procedures, namely criminal, civil and administrative law procedures. The execution of verdicts and distraints on goods are considered to be part of the judicial procedure. This main group is split up into direct legal aid (A1) and auxiliary services (A2).

Auxiliary services in judicial procedures are the services in judicial procedures, according to the law, can be carried out by people rendering other judicial services (such as bailiffs) only, such as serving writs, recording cases, execution of verdicts and several auxiliary services in court. Most services are rendered at the request of lawyers on behalf of one of their clients.

Attorney's services can be described as representation of a client in judicial procedures, where the law prescribes this. Item A2.1 only contains Attorney's services rendered under order of other lawyers. Direct legal aid is rendered by lawyer's offices, legal advice centres and incidentally by bailiff's offices.

B. Legal aid to statutory procedures other than in courts of justice.

This heading includes representation in statutory procedures other than courts of justice. This primarily concerns legal assistance to petition procedures (pardon, asylum, applying for patents) and procedures of appeal and objection with regard to government decisions.

These services are rendered by all groups mentioned under "general".

C. Notarial acts.

These are authentic notarial acts referring to agreements or acts in law, ones for which there is a legal obligation (for instance transfers of real property, mortgages, wills) as well as other agreements or acts in law (such as rent and labour agreements, transfers of movables).

Other authentic acts, for example those drawn up by registration officers are not included.

D. Legal advice and information.

Legal advice comprises - among other things - writing letters, assistance in arbitration cases and out of-court representation. Obviously law has tangent planes with several other disciplines. The product "legal advice" can be combined with economic advice (structure of corporations, taxes) or technical advice (on subjects as patents or brands). Such mixed products can be classified according to their main activity or added to the classification as a new and independent product. The workinggroup does not prefer any particular alternative.

E. Legal services concerning bankruptcies and suspension of payment.

This item contains the complete settlement of bankruptcies and suspension of payment by official receivers or trustees.

F. Other legal services.

This heading includes for instance legal aid in divorce cases, partition of undivided property such as in the case of legacies, and legal aid at public auctions, except for notarial acts with regard to auctions.

Jurisdiction.

Services mentioned under A.1, A.2, B and D are split up into the following 8 jurisdictions:

1. Labour law (e.g. dismissal, general labour law, legal position of public servants and pensions).
2. Social insurance and services.
3. Housing (e.g. rent).
4. Government (e.g. administrative law, tax law, town and country planning and environment, military law, education, aliens law).
5. Law of persons and families (i.e. divorce cases, alimony, juvenile law).
6. Other law of obligations.
7. Company law.
8. Other fields of civil code (law of succession, business law, contract law, establishing corporations etc.).
9. Penal and criminal law (crimes or offences).
10. Other jurisdictions (e.g. international civil law).

All cases concerning patents are looked upon as a part of business law. For notarial acts a more suitable classification has been developed, linking up with the practice quite well, and therefore improving the possibilities of data collecting.

Heading C9 classifies - among other things -: notarial acts regarding the division of a building into appartments, legalization of signatures and lotteries. The division of notarial acts does not completely link up with the division of jurisdictions. Item C5.1 partly corresponds with A1.7. Items C1 and C2 correspond with A1.6, while C3 and C7 correspond with A1.5. C4, C5.1 (partly), C5.2, C6 and C8 correspond with A1.8. As far as item C9 is concerned, no further division according to A1.1- A1.8 seems necessary in view of the minor importance of this item.