

1. Introduction

Justice must be done and must be seen to be done. 'Seen to be done' means, among other things, allowing the media to report on court proceedings. In practice, this includes the proceedings during the hearing and the reporting of the subsequent judgement in the press. In our modern society, the media play a dominant role in the way this information is disclosed. Assuming that trust in the judiciary is based on how proceedings are reported in the press, it is clearly important that the channels of communication between the judiciary and the media be transparent and open. In this booklet, we will attempt to describe how the Dutch judiciary has organized its relations with the media and what efforts it has undertaken to improve those relations. We will begin by discussing the role of the press judges and the way they have organized themselves. Additionally we will describe the start of a national pool of judges acting as spokespersons for the judiciary and we will further on focus on the role of the Council of the Judiciary in press relations. We will then go on to explain how press relations work in daily practice. In this context, we will describe the role of the communication advisor in the courts and will focus in on a newly developed programme aimed at improving the judiciary's public information provision.

2. The media in the Netherlands

Freedom of expression is a cornerstone of the Dutch democratic system. Both in relation to broadcasting and to the press, the judiciary is required to create the conditions necessary to enable the media to fulfil the crucial roles they play in keeping the public informed. In the last few decades, the interest of the media in the judiciary has grown steadily. However, this attention has shown a bias towards criminal proceedings. Considering that criminal cases account for only twenty-five percent of the total caseload, this interest appears to be disproportionate. To date, the media in the Netherlands have shown both restraint and respect in matters, such as safeguarding privacy and avoiding premature judgments of defendants. In addition, the majority of the media adhere to the self-imposed agreement to publish only the initials of defendants.

History

The common principle in the judiciary was formally that, "The judge speaks by means of his verdict." Explaining a verdict to the press was not considered necessary. This view began to change in the 1970s, partly due to the pressure of the emerging post-war generation and the wider held understanding that justice is a public concern. To reflect this vision, it became essential that journalists be taken

more seriously. The idea that the judiciary's "image" forms an important element of public trust in it also gained further support. The initial response of the Public Prosecution Department was to appoint 'press prosecutors' to give the press better information. Soon after that, the courts followed suit by appointing their own 'press judges'. By 2005, every court in the Netherlands had one or more of these press judges.

3. The role of the press judges

The press judge is the spokesperson who answers to the media on behalf of the court. Officially, this task lies with the president of the court, but this responsibility has been delegated to the press judge for several practical reasons. For one thing, court presidents are usually too busy to study all the cases, and are involved in summary proceedings. These proceedings usually attract a great deal of media attention in their own right.

In standard practice in the Netherlands, judges never have contact with the press about a case at hand; rather, they provide information and explanations to the press judge who acts as a spokesperson to the media. Press judges are appointed at the district and appeals court levels. Their role is principally to communicate with the media about individual cases being handled by the court. Although attention usually focuses on criminal cases, civil and administrative cases also draw media coverage at times. The volume of work for press judges is usually determined by the size of the court. In larger courts, such as the courts of Amsterdam or Rotterdam, there is a considerable workload on a daily basis, whereas smaller courts deal with fewer cases of public interest. Most press judges fulfil this particular responsibility in addition to their own judicial work and receive no form of compensation – either in time or

money. Initially, no special qualifications were required of press judges. In fact, the Committee of Press judges only recently established the skills and qualifications required for the job. These include a good camera presence and the ability to write about matters of law in terms easily understood by laypeople. The Council for the Judiciary coordinates special training courses for these judges, including on-camera training. On a yearly basis, an average of sixteen judges receive media training. The fact that many press judges change jobs within the judiciary every two or three years, and may cease to serve as press judges poses an additional challenge. On the other hand, this high turnover has an advantage: an increasing number of judges now become familiar with the effects of their work on the media.

4. Committee of Press Judges

Twice a year, all press judges meet to discuss their experiences with the media during the previous six months. Typical topics include incidents with the press, where the privacy of a defendant or witness was violated, or negative experiences with the interviewing techniques of some journalists. In addition to providing an opportunity to exchange experiences, these meetings serve to refine the common guidelines for dealing with the media. Examples of such guidelines include those regarding cameras in the courtroom or procedures for dealing with journalists who infringe on the guidelines. The Committee of Press Judges has a governing body that prepares the agenda for these meetings. The committee itself has no decision-making authority, and when the assembled press judges agree on a certain new manner of conduct, they present this new guideline to the presidents of the courts with the request to subscribe to the guideline.

Case: “The threatened judge”

One of the judges of a sub-district court was seriously threatened. As a result, she and her family were placed under 24-hour police guard for a period of several weeks. The press judge of the court in question heard that a local television network planned to release the picture and name of this particular judge and submitted a request not to have that information broadcasted. The subsequent refusal of that request brought the court to the decision to temporarily expel journalists from the court. This prompted a protest by the network in question, which accused the court of obstructing free access of the press to the judiciary system. A meeting between the chief editor, the court president and the press judge followed, in which all explained their views on the case. The discussion was constructive and the sanctions were lifted.

Press judges per sector

With more and more people turning to audio-visual media for their news, the demand has soared for radio and television interviews with judges on general topics, such as the duration of sentences passed by the courts and the motives behind these decisions. Until recently, it was difficult to find judges who were willing to act as spokespeople on behalf of their colleagues. This reluctance stemmed from a concern that the audience could get the impression that a judge was speaking on behalf of his colleagues, but was in reality presenting his private opinion. To alleviate these concerns, the chairpersons of the criminal sector of the district and appeal courts recently agreed to appoint a national pool of judges, who are both experts in their field and experienced in dealing with the press. The members of this pool have been authorized to speak nationwide on behalf of their colleagues, and are prepared to act as spokespeople in front of the cameras. In 2005 the judges of the family sector decided to follow suit.

The role of the Council for the Judiciary in press relations

The chairman of the Council acts as spokesperson on behalf of the judiciary in cases where the judiciary, as a whole, is at stake. These cases usually concern issues, such as the budget or workload of the judiciary, or the quality of the judiciary.

The Council's press office effectively performs a co-ordinating role. Journalists often ask the courts to refer them to judges who can answer their specific questions, or who are prepared to be interviewed in their programme. There is an agreement with the courts to refer such requests to the press office of the Council for the Judiciary.

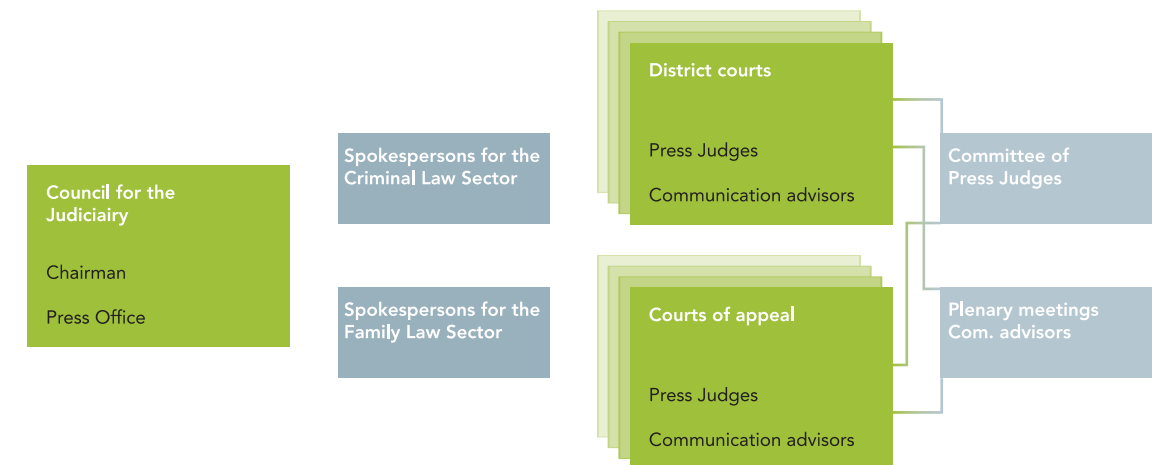
Once a year, the Council organizes a conference concerning a topic relating to the relationship between the judiciary and the media. These conferences are organized primarily for press judges, communication advisors and other relevant court employees. Occasionally, journalists are also invited to attend these sessions. At one of these conferences, the discussion focused on the topic of cameras in the courtroom. In 2003 the results of a survey about the relationship between the judiciary and the media were presented and discussed. During this conference, both sides posed questions on how effective their relationship really was and what could be done to improve it.

5. The role of the communication advisor

Over the past five years, a new profession has been introduced in the court system, namely that of the communication advisor. Most communication advisors are professionals with an education in communication. In addition to handling internal communication and public information, these individuals are responsible for the initial contact with the press regarding matters, such as answering questions about hearing dates or the use of cameras in the courtroom. The introduction of communication advisors has been a welcome relief to press judges. In practice, most press judges lack sufficient knowledge of the media. By contrast, communication advisors usually do not have a professional legal background. As a result, both professions have become increasingly complementary, and are working in ever-closer collaboration. Much like the press judges, communication advisors attend plenary meetings four times a year to discuss the most important trends in their work. In addition to their contacts with the press, other topics relating to internal communication and public information are also discussed.

Case: "Both sides of the story"

Many judges respect the wishes that defendants often have to maintain their right to privacy. The guidelines for the press recognise this point of view. Nevertheless, a defendant can sometimes benefit from full publicity, as the following case demonstrates. During the preparation of the ruling for a murder case, several (local) newspapers wrote about the case and the possible suspect. At the hearing, the presiding judge gave permission to film the public prosecutor reading the charges. When the cameras ran the public prosecutor did not restrict himself to the charges but illustrated in detail why the defendant was the only person who could have committed the crime. When he was finished, the judge asked the camera team to leave the courtroom. The defendant protested against this decision and requested that his attorney's plea be filmed as well, in order to give viewers the opportunity to hear his side of the story. The judge refused this request, referring to the press guidelines. As a result, the attorney requested the court, after the hearing, to challenge the presiding judge on grounds of appeared partiality. The court accepted this request, based on the fact that this judge could indeed have the appearance of partiality in the case. As this case shows, the application of one of the guidelines for the press, drawn up to protect the accused, can lead to a situation where those guidelines proved to conflict with the interests of a particular defendant.



The *chairman of the Council for the Judiciary* acts as spokesperson on behalf of the judiciary in cases where the judiciary, as a whole, is at stake.

The *Council's press office* performs a co-ordinating role for the press in finding specialized spokespersons from within the judiciary.

The *national pool of judges per sector*. The members of this pool have been authorized to speak to the press nationwide on behalf of their colleagues. There are pools for the criminal law sector and the family law sector.

The *press judge* is the spokesperson who answers to the media on behalf of the court.

Communication advisors are responsible for the initial contact with the press, internal communication in the court and the provision of general information to the public.

6. Contact with the media in daily practice

Guidelines

The judiciary's ever-intensifying contact with the media has given rise to increasing questions about matters, such as fair trials, the protection of individual privacy and the right of access to information. Until the year 2000, each court had its own set of rules and practices, a situation that had great potential to confuse journalists who attended hearings throughout the country. In 2000, however, the press judges drew up a set of guidelines for audio-visual media in the courtroom. In addition separate guidelines were developed for the press in 2003. The guidelines aim to safeguard the public nature of the court system and the privacy of all those involved, as well as to ensure the uninterrupted progress of the proceedings. According to the guidelines, journalists have the right to glance over the summons in a criminal proceeding. The only visual recordings allowed are those of the entry of the judges and the clerk of court into the courtroom and the reading of the charges and the judge's verdict. In civil and administrative cases the rules are far more lenient. The presiding judge may grant permission to film other segments of the hearing, such as the public prosecutor's closing arguments and the pleading counsel's speech, provided there are sufficient reasons for doing so. No recordings are permitted of the participants (other than

the professional participants in the case), including the accused, injured parties, witnesses, court-appointed experts, probation officers and interpreters, without these individuals' prior permission. These guidelines also apply to court illustrators, as they make recognizable portraits for television and newspapers. Early in 2005, a fresh debate began concerning these guidelines, as some courts consider them too stringent. These courts prefer a broadening of the entry conditions for camera teams in the courtroom and are even considering giving permission for filming entire hearings. Others, such as legal professionals, question the judicial legitimacy of the guidelines which, in their opinion, appear to conflict with the right of the individual regarding the public release of his or her images.

Facilities for the press

Every court in the Netherlands has a pressroom, with telephone and Internet connections, where journalists can work during the intermissions between court proceedings. Courtrooms are also furnished with special tables for journalists. In cases of great interest to the public and the media, a second courtroom may be reserved for the press, where journalists can follow the hearings on a video screen. Journalists can consult the schedule of hearings every week at the court. Some courts send their hearing

schedules for criminal cases to a special not court-related press office, which makes a pre-selection for the media.

Pool arrangement

In cases of national interest, courts can be so overwhelmed by filming requests from the media that they do not have the space to accommodate them. In these cases, most courts use what is called the "pool arrangement." In this arrangement, one or two camera teams, usually from a national and a local network, receive permission to film in the courtroom, and other broadcasting stations can buy the footage.

Publication of judgements

The main body of the Dutch judiciary's official website consists of a database of judgements, which has proven to be very popular among legal professionals. In less than six years, since it was first launched in 1999, the number of visitors has increased exponentially. Judgements in high publicity cases are published as soon as possible after the pronouncement of the verdict. Sometimes, especially in complicated or controversial cases, the courts release press bulletins with a summary and explanation of the judgement. These press releases are written by the

communication advisor or the press judge, who works in consultation with the case judge.

Meetings for journalists

One of the key issues is that not all journalists have enough legal expertise to report on court cases. Some of these cases can be very complex and require nuances that need to be reduced to sound bites of twenty seconds, or "one-liners" for the press. Misunderstandings often arise. One example is the assumption that the public prosecutor sentences the defendant, and the judge requests a sentence of a specific duration, while in fact, the reverse is true. To familiarize journalists more with the legal system, some courts organize meetings for the press to explain both criminal and other court procedures. The Council for the Judiciary has also published a glossary of terms to help the press understand legal jargon.

7. Information for the public

In addition to informing the public through the media the judiciary in the Netherlands considers it of great importance to inform the public more directly. Journalists have their own interests and communicate their own views via their reports. In recent years, the need to inform the public directly, without the “translation” of journalists has grown. One of the judiciary’s short-term aims is to improve the transparency of the judiciary system and to explain how it functions. These aims include the active provision of information to the public via the Internet, schools and other media. A programme has been designed with several sub-projects, including the organisation of a special day in 2006, when all courts will be open to the public. Visitors can attend re-enacted court hearings, have the opportunity to ask questions to the court president and visit the cells of suspects in the court buildings. Another project focuses on providing special information about the judiciary for young people via a website, using quizzes and cartoons. The Dutch judiciary also plans to devote more attention to the quality of information in the letters courts send in advance to participants in court hearings. One of the most successful instruments in the public information programme so far has been the website feature that enables the public to ask questions about the judiciary. In the last few years, the volume of questions

has increased to several hundred each week. Answering these questions has cost a great deal of effort – and still does. Nonetheless, this has proven to be an effective means of gaining an impression of the ideas that the public have concerning the judiciary.

Case: What to do about cell phones?

An example of technological advances that confront the judiciary with unanswered questions is the camera feature on cell phones. When these cell phones first appeared on the market, court security provisions made it easy to have visitors hand them in and collect them after the hearing. This has since become impossible, as almost all cell phones now feature this camera function. To date, these mini cameras have not been misused. The fact remains, however, that these cell phones pose a real threat, as they make it extremely easy to violate the privacy of defendants and others in the courtroom.

8. Summary

Court procedures are often of public interest. The manner in which journalists report about court cases in newspapers and on television can influence public trust in the judiciary. The Dutch courts have established public information departments and appointed what are called “press judges” for the benefit of the media and the public society. Press judges have established national guidelines regarding the relationship and behaviour of both the press and court officials. These guidelines cover such issues as the use of audiovisual equipment in courtrooms. A good mutual understanding of each other’s interests and working methods has proven equally important for smooth working relations between the courts and the press. The question is: have all these measures worked? It is difficult to measure progress in press relations objectively. Nevertheless, the Council has the impression that the judiciary in the Netherlands has been making improvements in that direction. Compared to several years ago, far more attention is now devoted to the needs of journalists, and judges are more aware of the importance of a positive relationship with the media. Nevertheless, both parties realize that judges and the media have different interests and responsibilities, which may diverge at times, but which are based on an increasing degree of mutual respect.

Figures

The Dutch court system comprises nineteen sub-district courts, including five courts of appeal and two special tribunals, which rule on disputes in specific areas of administrative law. Altogether, there are 75 active press judges. Some serve as substitutes, who are placed on duty when the official press judge is absent. Dutch courts also retain a total of 30 communication advisors. It is estimated that in 2004 there were between 20 and 50 court hearings per court, in which cameras were allowed in the courtroom. In total, camera teams filmed some 800 court hearings or pronouncements, bringing the weekly average to approximately fifteen criminal proceedings.

