

## I. Role and structural organization

- Legal framework

The legislation installing the Dutch Ombudsman for Children was approved by Parliament in June 2010 and is effective from April 1st 2011. The Ombudsman for Children is a Deputy Ombudsman of the National Ombudsman of the Netherlands. The National Ombudsman of the Netherlands is also founded by law and is independent and impartial. Both the National Ombudsman and the Ombudsman for Children report directly and independently to the Dutch Parliament.

- Principal functions as defined by law

The task of the Ombudsman for Children is to promote observance of the rights of the child both by administrative authorities and by organisations constituted under private law, in the field of education, youth care, child care or health care. He shall do this by, at a minimum:

- a. Providing advice and information about the rights of the child;
- b. Acting on request or on his own initiative to advise the government and the House of Representatives on legislation and policy that affects the rights of the child following complaints or on his own initiative;
- c. Instituting investigations into observance of the rights of the child following complaints or on his own initiative;
- d. Monitoring the way in which complaints lodged by children or their legal representatives are dealt with by competent bodies other than the National Ombudsman.

In accordance with article 12 of the Convention on the Rights of the Child, the Ombudsman for Children shall in the performance of his duties take account so far as possible of the views of children themselves and of the interests of children and of their perception on the world.

- Structural organization

The Ombudsman for Children is a Deputy Ombudsman of the National Ombudsman.

The team of the Ombudsman for Children consists, besides the Ombudsman himself, of seven persons:

- Teamleader;
- Ombudsworker;
- Participation and knowledge officer;
- Communications officer;
- Spokesperson;
- Advisor Knowledge development;
- Management assistant

Due to an increase in complains and signals an extra ombudsworker will start at the 1<sup>st</sup> of October.

## II. Individual complaints (if the institution has a competence to handle individual complaints)

### *Scope*

The Dutch Ombudsman for Children has the competence to handle complaints. The complaints have to concern children rights. Complaints can be divided into complaints about a certain individual case or signals about structural problems. The individual complaints can lead to action or a judgement in that particular case. Signals can be collected and handled together when there are several of it. They can lead to a general investigation. The general investigation can lead to an advice to the government or institutions involved.

The scope is as follows:

- The Ombudsman is obliged to handle complaints about administrative authorities;
- The Ombudsman is entitled to handle complaints about organisations and institutions constituted under private law for youth care, child care, health care and education.

### *Relevant statistics*

The Ombudsman started his work in April 2011. So the information and the number of cases is limited to the period April 1st 2011 until September 1st 2011. In this period the Ombudsman received:

- Almost 300 individual complaints, of which 30 cases were registered as individual complaints about violations of child rights and the others as requests for help and advice about problems not being a violation of a child rights.
- 90 signals about structural problems.

72 complainers out of the mentioned 300 were children. The others were mostly (step/foster)parents, sometimes grandparents and otherwise lawyers, brothers/sisters, social workers or a third party.

The average age of the children was 12,5 years. The eldest was 17 years, the youngest 8.

The complaints of the children concern the following topics:

- Education/school (26%)
- Youthcare (22%)
- Leisure/playing field (8%)
- Contact with parents after divorce (8%)
- Bullying (8%)
- Asylum (6%)
- Others (22%, i.e. changing names, kidnapping, labour-dispute, unhappy/maltreatment)

## III. Expressed opinions, statements, policy recommendations and/or proposals for legislative and/or other reforms

- **The position of children in asylum procedures:** In April 2011, the Ombudsman for Children raised his concerns, through an advice sent to the State Secretary and through an interview in *de Volkskrant*, a Dutch newspaper, about the practice of the current government to send children and their families back to insecure areas, such as Afghanistan and Iraq, when their asylum application was rejected. In many cases, children have lived for years in The Netherlands or are even born here. They go to school, made friends and speak Dutch. The Ombudsman for Children considers this practice a violation of article 3 ('the best interest of the child'), article 6 ('the right to development') and article 8 ('the right on identity') of the CRC. In reaction to a

specific case of an Afghan girl, the State Secretary for Immigration and Asylum decided to adjust the current policies; girls from Afghanistan who have been in The Netherlands for 10 years or more, and their families, can stay in The Netherlands, since 'westernized' girls will be in great danger when they have to return to Afghanistan. The Ombudsman for Children thinks that this adjustment should be broadened so as it includes boys and children from other insecure areas as well. Also, when children are here for five years or more, they should be considered to be rooted in the Dutch society, and return to their home country is no longer in their interests.

- **Interpreters in health care:** Regarding the plans of the Dutch government to no longer covering the costs of interpreters in health care, the Ombudsman for Children expressed his concerns in *NRC Handelsblad* a Dutch newspaper. Also, he formulated his concerns in a letter to the minister of Health Care. The current government stresses the responsibility of every person who lives in The Netherlands to be able to communicate in the Dutch language. In their view, parents are responsible for hiring an interpreter or make use of a relative or friend who is able to translate during conversations with health workers. The Ombudsman's main concern is that access to adequate health care is restricted for children, when they are dependent of the capacity (or willingness) of the parents to hire an interpreter (or find a relative willing and able to translate) and urges the Minister to, at a minimum, guarantee the access and adequate communication between health workers and parents, when children are involved.
- **Child Abuse:** The Ombudsman for Children is deeply concerned about the high prevalence of child abuse and domestic violence towards children in The Netherlands. Therefore, he brought together the leading experts in this field to discuss a new perspective on the prevention of child abuse. Together they will present a vision document this fall.
- In the near future the Ombudsman for Children will formulate an advice on different legislative reforms, that are announced by the Dutch government:
  - a. **Criminal law for adolescences:** The Dutch governments has expressed plans to adjust the criminal law for adolescences in the age of 16 to 23 years. This results in a reinforcement of sanctions for 16- and 17 years olds, such as the raise of the maximum detention from two to four years. Under the new legislation, the Dutch government remains the reservation on article 37, which means it maintains possible to convict 16- and 17 year olds under adult criminal law. The Ombudsman for Children will organize an expert meeting with different professors and other experts on juvenile law and hold interviews with professionals working with minors in juvenile justice and youngsters themselves in order to hear their opinion on the plans.
  - b. **Special adviser:** In general children in The Netherlands do not have the right to go to court themselves. They can only do so in a limited sort of cases (the formal way). In other cases they can sometimes write a letter to a judge to explain their view (the informal way). In all other cases, they are on their own and are supposed to be represented by their parents. In some cases through a judge can appoint a special adviser ('bijzonder curator' in Dutch) to a child to stand up for the interests of the child, both in a legal process or otherwise. The adviser can be a lawyer but can also be a psychologist or a social worker. It depends on the needs of the child and the case. The special adviser can only be appointed when there is a conflict in interests between the child and the parents. In general the special adviser is hardly ever appointed.  
The ombudsman worries about the position of children in the Dutch legal system. He investigates the possibilities to expand the formal ways to go to

court but also the possibilities to expand the use of the special adviser. For this purpose he organised an expertmeeting and will make recommendations to the Dutch government.

- c. **Unaccompanied refugee minors:** The Dutch government is preparing a reform in the policies regarding unaccompanied refugee minors. Under the new policies, it will become easier to send back the minor in an early stage to his home country (at this moment this happens as the minor turns 18), since, in the conviction of the Minister, it is not in their interest to stay in The Netherlands for a long period, as they will become increasingly rooted in the society. The Ombudsman for Children agrees that a long period of insecurity about the future is not in the interest of the minor. However, the state is responsible to guarantee the protection of minors as long as they stay in the Netherlands, as well as upon their return to their home countries.
- d. **Circumcision of boys:** The circumcision of boys (for non-medical reasons) has not gained as much attention as the circumcision of girls did so far. However, doctors in the Netherlands have raised their concerns and have stressed the importance of autonomy of the body. They have directed themselves towards the Ombudsman for Children. It is a complex question, the Ombudsman will investigate this issue closely before formulating an opinion.
- e. **The periodic report to the CRC:** The Ombudsman for Children is preparing the periodic report to the Committee of the Rights of the Child in Geneva, as the Dutch government will hand in its report in March 2012.

#### **IV. Research, investigation, studies**

In cooperation with the University of Leiden and the Netherlands Institute for Social Research, The Ombudsman for Children is preparing a longitudinal monitoring research on children's rights in the Netherlands ('The Child Rights Monitor'). The first measurement will take place in January 2012 and will be repeated every year from then.

Short term investigations on individual cases have been carried out.

#### **V. Communication, Promotion and Publications**

In the fall of 2011 the Ombudsman for Children will start a national campaign to gain awareness for the Ombudsman among children, youngsters, as well as parents and professionals surrounding them.

Also, in the fall, The Ombudsman for Children will visit children and youngsters at different places (schools, youth prisons, children hospitals, youth care institutions, etc) to be able to talk to them directly and learn from their experiences.

#### **VI. Other activities**

Since its start in April 2011 the Ombudsman for Children has had many introduction meetings with government officials, representatives of civil society organisations, the National Youth Council and many others. Also, as a team, we have worked on the formulation of a clear and motivating mission and vision for the institute. The first period has consisted primarily of orientation, discovering, brainstorming. As a team, we have started with lots of enthusiasm and motivation to make the Ombudsman for Children a creative, dynamic, knowledgeable and accessible institution!