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**MEDIA SELF-REGULATION
IN THE NETHERLANDS**

**THE NETHERLANDS PRESS COUNCIL
(RAAD VOOR DE JOURNALISTIEK)**

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History of the Netherlands Press Council

In The Netherlands we have a self-regulation system for a considerable time. The origin of our Press Council leads back to 1948. After the Second World War had ended and the free press in The Netherlands had been rebuilt, the journalists' organisations looked for means to safeguard good journalistic practice. The main point of concern was the standing of the profession.

The Netherlands Union of Journalists founded in 1948 the 'Raad van Tucht', a disciplinary council, which functioned as a kind of Press Council until 1960. The competence of this disciplinary council extended only to members of the Netherlands Union of Journalists. In case of bad professional conduct the disciplinary council could impose one of the following sanctions: warning, rebuke, suspension, or expulsion as member of this Union. During the twelve years of its existence the disciplinary council came to a judgement in fifteen cases.

An incident led to the institution of our present Press Council, the 'Raad voor de Journalistiek'. What happened? A journalist of a daily paper had published an article about a government statement, presented to the press under embargo. The journalist did not accept the embargo, because he already knew the content of this statement from his own sources.

As a reaction to this event the government excluded this journalist during one year from all information on the part of the government. The Prime Minister declared, when asked for his opinion in Parliament, that the government could not accept the disciplinary council judging this question, because the council was only competent to judge the members of the Netherlands Union of Journalists.

So, if a journalist ended his membership, the disciplinary council lost its competence to examine the complaint and to make a statement. In reply to this attitude of the government the Netherlands Union of Journalists reformed the disciplinary council into a council of opinion in 1960. This Press Council was given competence with regard to *all* journalistic practice, including the practice of non-organized journalists (in the Netherlands Union of Journalists).

Worth mentioning in this context is that in 1948 in the first collective labour agreement for daily newspaper journalists a so-called 'closed-shop' article was agreed upon by the parties, meaning that journalists were obliged to join the union.

This article however was not approved by the Department of Social Affairs and therefore never became valid. If this would not have happened, the disciplinary council could have judged all 'professional' journalists.

Also worth mentioning is that in 1949 the government proposed a bill, regulating the registration and assessment to profession of all journalists. This bill also envisaged a self-discipline system based on public law. Great discontent and criticism on the part of the union led to the withdrawal of this bill finally in 1960.

As a result journalism in the Netherlands is - as we call it - a free profession. This means that everybody may call himself a journalist and act like one. There is no obligation to follow a specific education or to register as a journalist.

Establishment and financing

At present the Netherlands Press Council is established and will be maintained by a foundation named Stichting Raad voor de Journalistiek. In the Foundation all important media organizations participate:

- the Netherlands Union of Journalists (Nederlandse Vereniging van Journalisten, NVJ)
- the Netherlands Society of Chief-Editors (Nederlands Genootschap van Hoofdredacteurs)
- the Netherlands national news agency (Algemeen Nederlands Persbureau, ANP)
- several co-ordinating organizations of printed press:
 - the Dutch Newspaper Publishers Association
 - the Consumer Magazines Group of the Dutch Publishers Association
 - the Dutch association of local newspapers (Nederlandse Nieuwsblad Pers, NNP)
- the co-ordinating organizations of public broadcasting:
 - the Nederlandse Omroep Stichting (NOS)
 - Stichting Regionale Omroep Overleg en Samenwerking (ROOS)

and further the following organizations of commercial broadcasting:

- RTL Nederland, the Netherlands branch of RTL Group
- SBS Broadcasting

All participants of the Foundation together finance the Press Council: the media owners together for approximately 86,6%, the Netherlands Union of Journalists and the Netherlands Society of Chief-Editors both for some 6,7%. In principle all costs are to the expense of the branch of industry. However, to implement certain improvements (see below) the council needed more funding. Therefore it has applied for additional financial support by the government which is granted for a temporary period of three years (September 2009-2012). This support amounts to a maximum of € 150.000,-- per year, which is approximately 50% of the current yearly budget.

The board of the Foundation appoints the members, chairmen and secretaries of the Press Council. The Press Council consists of four (vice) chairmen, thirteen member-journalists and thirteen members-not-journalists. The chairmen and members all do their work in their spare time and beside their normal jobs.

The chairman and his substitutes are lawyers. The member-journalists have various jobs in journalism such as editor, editor-in-chief or freelance journalist. The non-journalist members have different positions in society. The secretary and acting secretary must be a lawyer. The appointments are for four years but can be extended for another four years.

Further the board of the Foundation determines the regulations of the Press Council.

Mission

According to article 3 of the Statutes of the Foundation the Press Council is charged with the examination of complaints against violations of good journalistic practice. But not every complaint leads to such an examination. Not everyone may complain. In principle only they, who are to be considered as directly involved in a case of journalistic (mal)practice, can complain.

Furthermore, publications occasionally compromise collective interests rather than an individual interest. In that case, institutions for which defending the collective interest concerned is enshrined in their articles of association, are authorised to file a complaint. It will then be up to the Council's discretion to evaluate whether the institution lodging the complaint is admissible.

The complainants are mostly persons or organizations who feel there has been published in a false, incorrect or grievous way about them.

The complaint must concern journalistic practice of either a professional journalist or someone who, on a regular basis and for remuneration, collaborates on the editorial content of a mass medium. Besides, the Press Council cannot treat the maintaining of the standard of good taste or general complaints against the press. The complaint must always be in regard of a specific publication, a specific series of articles or a specific broadcasting program, as far as journalistic practice is concerned.

Since the change from a disciplinary council to a council of opinion the Press Council no longer can impose a sentence on the journalist. Neither can the Press Council assure the complainant financial compensation. In this context one may ask whether or not the Press Council is a 'watchdog without teeth'. However, the Press Council has an important public function by giving a moral redress to the complainant. The council gives its opinion on the complaint and publishes its decision on its website and in the professional magazine for journalists. Also it circulates its decisions on a wide scale by sending it to the national news agency and to several other media. Further it is of great importance that media publish the opinions of the Press Council, especially those on valid or partially valid complaints. After all, such brings satisfaction to the complainant and contributes to the debate on journalistic ethics. In this respect must be emphasised that the Press Council is founded by the media organisations itself. This implies that the media take the Press Council serious and almost all media co-operate voluntarily on the procedure of the Press Council.

A considerable amount of media has signed an agreement in which they declare to publish the decisions of the Press Council in cases in which they are involved. Some media did not sign this agreement because they have objections of principle, meaning that the agreement should infringe on the freedom of the press. However, this does not mean that these media do not publish the decisions of the council at all. The number of media which actually publish in valid and partially valid cases, is now around 70%, and still growing.

For most complainants a moral redress is enough. It prevents people from taking legal actions, although the one does not exclude the other. Indeed, a complainant will not receive any financial compensation, but in the Netherlands a claim for such compensation in court is hard to win.

Procedure to complain

Besides, compared to a legal procedure the procedure to file a complaint is very accessible. The complainant just has to send his complaint in writing to the office of the Press Council. No charge is made. Legal representation is permitted, but not compulsory.

After a complaint is received the secretary sends it to the journalist or chief-editor involved, asking him to respond on the complaint in writing within three weeks. Then in most cases a public hearing will be arranged.

The Press Council is convinced that the best way of dealing with the complaints is to hear both parties, if possible. However, parties are not obliged to appear.

In practice it occurs that both parties attend the hearing, that only the complainant or the journalist is present, or that both parties are absent. During the hearing both parties may explain their points of view. Further the hearing gives the Press Council the opportunity to ask questions and to explain the standards of journalistic ethics and the circumstances in which these standards must be realised.

Sometimes the secretary is of the opinion that the complainant can not be considered as directly concerned or the complaint does not relate to journalistic practice. If however the complainant will present the Press Council with the question whether or not he is admissible, or whether or not the council is competent, the Press Council deals with such a case without a hearing.

The Press Council deals with an average of four to five complaints per hearing. At its sessions the chamber of the Press Council consists of at least three and not more than five members: a chairman and a proportional amount of journalist members and non-journalist members (1/1 or 2/2). If one of the members is suddenly unable to attend, the Press Council may deal with a case with four members if the parties present approve.

After the hearing the Press Council considers the case behind closed doors. Then the secretary formulates a draft decision. As soon as the comments of the president and members of the Press Council are incorporated, the definite decision will be sent to both parties. According to the regulations this must be within eight weeks after the hearing.

In its decision the Press Council asks the journalist or mass medium in question to publish the decision. After sending its decision to the parties, the Press Council publishes its decisions itself on its website and in the professional magazine for journalists, as mentioned earlier.

A large part of the decisions concern alleged infringements of privacy. An other significant part is related to publications which contained severe accusations referring to the complainant, who believed the accusations lacked valid foundations and that the journalist wrongfully did not hear his side.

Developments & challenges

In the past criticism was heard that the Press Council lacked enforcement power. To enlarge its esteem the Press Council constantly tries to improve its working methods. Over the years the statutes and regulations have been adjusted. Since 1993 there is also the possibility of mediation between complainant and journalist. Another important change is that since that same year the Press Council can give a statement of opinion about a case of principal interest on its own initiative. Up till now this has happened four times: about the use of stolen information by journalists (RvdJ 1995/32), about the use of hidden cameras and microphones (RvdJ 1996/44), about embargo (RvdJ 2003/50) and about the plane disaster near Tripoli in Libya (RvdJ 2010/35).

As from January 2003 a complainant may apply for an accelerated treatment of his complaint. The latest adjustments in the regulations are made in 2005. Since February of that year a term of six months is implemented, in which a complaint must be filed.

Further the Press Council introduced consistency in its decisions by expressing the tendency in its decisions, referring to its earlier opinions in similar cases.

Over the years the work of the Press Council has enlarged. Probably not because journalistic malpractice increases, but because more complainants find their way to the Press Council.

In the past couple of years some governmental reports have been published concerning the accountability of the media. The government is of the opinion that in this respect a reinforced Press Council can play an important role. However, the costs for this reinforcement were initially for the account of the professional sector. In this connection the board of our foundation had success by finding funds to further improve the working methods of the Press Council.

The public broadcasting appeared to be willing to bear the extra costs for the last few months of 2004 and for 2005, to reinforce the office of the Press Council and to hire freelance clerks. These clerks formulate draft decisions. As a result the complaint procedure is shortened; the parties receive an

opinion approximately within four weeks after a hearing. In order to prolong the work of the clerks, in 2006, 2007 and 2008 the foundation collected extra funds from the Stichting Democratie en Media (the Foundation Democracy and Media).

Further the Press Council is enlarged in order to deploy enough presidents and members for a larger amount of hearings. The number of presidents is increased from 3 to 4, the number of members from 20 to 26.

Also the secretary's office put a lot of energy in improving the website of the Press Council. The website is more accessible than before and it is a lot easier to consult the decisions of the Press Council. Besides, the design of the website has been modernised and our brochure has been updated.

Furthermore the Press Council has been looking into the possibilities and ways to play a more active role in the public debate on journalistic practice. In that aspect the Press Council has worked on a guidebook for journalistic behaviour.

Until 2007 the Netherlands Press Council did not use a written code of ethics, unlike several other European Press Councils. However, in the discussion following the Jyllands-Posten Muhammad cartoons controversy (the 'Danish cartoons') there were pleas from various sides for some kind of codification. With just there were warnings against codification as well, since legislation may put pressure on the freedom of opinion. Therefore, consistent with self-regulation the Press Council has translated the standards mentioned in its jurisprudence in its own guidebook. With this guidebook the Press Council places its journalistic principles plain and simple at the disposal of the branch and the society.

The aim is to contribute to the transparency and the surveyability of the judgements of the Press Council on behalf of the professionals and the public. The guidebook was presented at the Annual Meeting of 24 April 2007 and amended in April 2008 as well as in September 2010. The guidebook and adjustments, including the English translations, are published on the website of the Press Council.

Besides the Press Council is working on the improvement of its social profile. Therefore the Press Council contributes to publications and broadcasts. Also rather frequently representatives of the Press Council participate in various meetings. Furthermore, when appropriate, the Press Council issues press statements (e.g. regarding the reporting on family dramas).

Research

With an allowance of the Stimuleringsfonds voor de Pers (promotion fund for the media) the Press Council carried out a comparative research among several other European countries – Belgium, Great Britain, Germany, Denmark and Sweden – to examine their procedures and budgets. The report “Press Councils in Western Europe, Studies for the Netherlands Press Fund – S22” can be ordered with the publisher (amb-uitgevers@xs4all.nl) and is available on the website of the council.

On the basis of the results the Netherlands Press Council has taken certain steps to improve its organisation. The council has attracted five ‘public members’ through an open selection procedure. Further, as from March 1st 2010, new regulations for the council’s activities have become effective, in which is provided for:

- more mediation activities;
- a simplified procedure for processing complaints (by the chairman and secretary together) in cases where the council clearly has no jurisdiction, the complainant is obviously inadmissible and/or the complaint is plainly unjustified;
- the possibility of reviewing decisions of the council.

Moreover the staff of the council has increased with a paid chairman for 16 hours/week and an assistant secretary for 20 hours/week. To implement these improvements, the council needed more funding and therefore it has applied for additional financial support by the government. This support is granted for a temporary period of three years.

AIPCE

Since 2005 the secretary of the Netherlands Press Council attends the annual meetings of the Alliance of Independent Press Councils of Europe (AIPCE). The AIPCE is a loose network of independent content regulators for both press and broadcast media. Representatives of several Press Councils and other media self-regulatory bodies meet each other at least once a year (in the autumn). The annual meetings provide a forum for the participants to discuss topical issues, to exchange ideas and to offer and receive advice. The Netherlands Press Council has organized the 12th annual meeting of the AIPCE in 2010. A report of this meeting is published on the website of the council.

Through the year we use this network to get in contact, mostly by e-mail, if some specific question has come up. Recently queries on the establishment of press councils, jurisdiction, online media and anonymous sources have been circulated.