
EASIER SAID THAN DONE: THE IMPLEMENTATION OF THE *WET ERKENNING NEDERLANDSE GEBARENTAAL* (DUTCH SIGN LANGUAGE RECOGNITION ACT)

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Abstract

Since its legal recognition in 2021, the implementation of *Nederlandse Gebarentaal* (Dutch Sign Language, NGT) in administrative and legal contexts has been monitored, particularly regarding sign language interpreters in criminal proceedings. Despite the legal entitlement for their use, these interpreters are often not employed in practice. Based on a report funded by the Netherlands Organization for Scientific Research, this article investigates the implementation of the *Wet Erkenning Nederlandse Gebarentaal* (the NGT Recognition Act) by way of a literature review, personal correspondence and semi-structured interviews conducted in 2023. Findings reveal a gap between legal provisions and actual practice, attributed to a lack of awareness of Deaf culture, interpreter positioning, legislative omissions, and the insufficient participation of deaf individuals. Recommendations for legislative and policy improvements are provided.

Keywords: sign language; deaf; empirical; socio-legal; doctrine; interpreters.

[A] INTRODUCTION

Since March 2021, *Wet Erkenning Nederlandse Gebarentaal* (the Dutch Sign Language Recognition Act, the Act) has been officially in force in the Netherlands. The status of *Nederlandse Gebarentaal* (Dutch Sign Language, NGT) is thus largely equated with that of Frisian, a language primarily spoken in the northern Friesland region of the Netherlands. NGT is, like Frisian, one of the officially recognized languages in the Netherlands. The 2021 Act is essential for approximately 15,000 deaf

* Author's note: the author wishes to thank the Netherlands Organization for Scientific Research (NWO) for financial support and Nadia Sonneveld for comments on an earlier draft of the original report.

sign language users who have NGT as their mother language (European Union of the Deaf nd) that is to say, people who were born deaf or learned sign language at a very young age. The Netherlands has a population of around 17.8 million inhabitants (Centraal Bureau voor de Statistiek 2023), of which 1.78 million people have hearing loss. Access to NGT is also important for those who were not born deaf.

Formed on 14 March 1996, under the directive of the State Secretaries of Health, Welfare and Sport, and Education, Culture and Science, the NGT Committee's primary objective was to propose methods for the official recognition of NGT and to assess the implications of such recognition for the integration of deaf individuals. The NGT Committee, composed of experts, organized hearings in October 1996, and gathered input from 68 participants, emphasizing the right to a native language for pre-lingually deaf children. This principle underpinned their work, which was largely focused on education, given that most stakeholders represented educational organizations.

In 1997 and 2001, the NGT Committee produced two reports, *Meer dan 1 Gebaar* (Md1G) reviewing the status of NGT (Baker & Ors 1997; Baker & Ors 2001). In the first report, the NGT Committee included 66 recommendations and the report was presented to government representatives with the aim of achieving a successful implementation of NGT in practice. The 66 recommendations were divided into 14 domains, with extensive attention paid to education (22 recommendations), target image positioning and the development of NGT and financial consequences (eight recommendations each) but little to topics such as the labour market and administrative and legal transactions (four recommendations each).

The four administrative and legal transaction recommendations are: the provision of administrative information; the use of sign language interpreters in both administrative matters and criminal proceedings; and ensuring the quality of sign language court interpreters. These recommendations were made to enhance access to interpreters and improve administrative processes, yet progress in this area has remained minimal.

Given the risk of obstruction of access to justice, this was a matter of concern. When deaf people are involved in legal matters or administrative issues, it is crucial that they are able to communicate effectively with the other parties involved. The NGT Committee's primary starting point is that every prelingually deaf child (born deaf or deaf before the age of three, even before language acquisition has been fully formed (Hall 2017);

Hall & Ors 2019) has the right to acquire and use sign language as their mother language. This prevents violations of rights and obligations due to poor or unclear communication and ultimately contributes to improving access to justice and procedural justice.

After the publication of the 2001 report, the NGT Committee disbanded due to a lack of progress in recognizing NGT. This prompted a large protest by the deaf community advocating for the legal recognition of NGT. In 2001, the Platform for the Recognition of NGT, a separate advocacy body, was established to update the NGT Committee's findings, aiming to evaluate the adoption of these recommendations and identify barriers faced by the deaf community.

In 2002, the *Nederlands Gebarententrum* (National Centre for NGT Lexicography) completed the Standardization of Primary and Education Lexicon project, establishing a standard NGT lexicon for education. That was a requirement set by the Government in order to recognize NGT. However, government action remained stagnant. In 2003, new initiatives emerged from *Dovenschap* (the Dutch Deaf Association) and the *Nederlands Gebarententrum* aimed to garner political support for legal recognition (Schermer 2012; Cokart & Schermer 2021).

In 2004, with renewed determination, the re-established NGT Committee sought constitutional recognition of NGT, leading to a pivotal moment in 2016 when a private member's bill was submitted. The ratification of the United Nation Convention on the Rights of Persons with Disabilities (Department of Economic and Social Affairs 2016) in 2016 was followed by legislative advancements, culminating in the official recognition of NGT in 2021. This recognition obligated the Government to promote its use in society (Rijksoverheid 2021).

This article aims to provide insight into the implementation of NGT and to focus specifically on recommendations as proposed by the NGT Committee from 1997 for the domain of *bestuurlijk verkeer* (administration) and *rechtsverkeer* (legal traffic), because both directly relate to fundamental human rights. *Bestuurlijk verkeer* is how the law is administered in Dutch society, and *rechtsverkeer* encompasses the comprehensive range of rights and obligations that emerge from a mutual legal relationship between parties. The research question being asked is how the Act has been or is being implemented in practice in the domains of *bestuurlijk verkeer* and *rechtsverkeer*.

Following a discussion of the methodology, we delve into NGT developments in information provision and legislation, emphasizing the

legal dimensions of the Md1G recommendations and the deaf community's position on *bestuurlijk verkeer* and *rechtsverkeer*. Relevant articles within the Act and the *Wetboek van Strafvordering* (Code of Criminal Procedure, WvSv) are analysed. Subsequently, the "Findings" and "Discussion" sections present insights from interviews, highlighting practical bottlenecks identified by participants, which include legal omissions, issues with interpreters, and a lack of familiarity with Deaf culture and rights. The article then concludes and provides recommendations for improvement aimed at stakeholders such as *Dovenschap*, various ministries, and organizations integral to advocacy for the deaf community.

[B] METHODOLOGY

To answer the research question, the study adopts a qualitative socio-legal research design combining doctrinal legal analysis with empirical research. Data were collected using two methods. First, a doctrinal legal analysis of relevant provisions of the Act and the WvSv was undertaken, focusing on the reading and analysis of primary sources of legal doctrine, seeking to achieve more than a mere description of the law (Hutchinson & Duncan 2012: 23).

Second, an empirical socio-legal study was conducted using semi-structured interviews to examine how these legal provisions operate in practice (Mascini 2024; van Rooij & Ors 2024; Webley 2019). The empirical component provided insight into how legal professionals experience the application of the Act and the WvSv in practice, particularly in relation to the use of NGT in criminal proceedings.

Four participants were included in the study: a professor of criminal law; a legal NGT interpreter; an expert witness; and a public prosecutor. They comprised two men and two women of different ages, located across the Netherlands and had many years of professional experience in legal practice and expertise in working with deaf people in legal processes. The interviews took place in the summer and autumn of 2023 and shed light on the way in which interpreters are, or are not, used, the operation of legal procedures during the criminal process, and the legal problems that many deaf people encounter.

The interviews were further supplemented with written correspondence via email and apps with the same participants and others involved in the use of NGT in law in practice. In the context of the doctrinal analysis, selected articles from the Act and the WvSv, particularly Articles 6 and 7, were sent to the participants in advance of the interviews. They were then

asked to respond in writing to questions concerning the meaning and operation of these provisions in *bestuurlijk verkeer* and *rechtsverkeer*. These written responses allowed participants time to reflect from their own professional expertise and were subsequently incorporated into the interviews, where participants could clarify, expand upon, or explain ambiguities.

Interview recordings were transcribed using ELAN and annotated in tiers (ELAN 2024). An annotation consists of a piece of text aligned with the video fragment track (Crasborn & Sloetjes 2008). The texts were written Dutch translations of questions and answers. Four tiers with time codes were created for annotating the video recordings: the default tier; interviewer questions; interviewee answers; and highlighted references such as pointing, actions, key information points and important signs.

A number of themes were identified through the ELAN analysis: first, the interpreter as the “final piece”; second, omissions in the law; and, third, unfamiliarity with Deaf culture.

[C] NGT IN *BESTUURLIJK VERKEER* AND *RECHTSVERKEER*

With regard to the domain of *bestuurlijk verkeer* and *rechtsverkeer*, the Platform Recognition of NGT noted in the 2001 report that, despite the 1997 recommendations, nothing had been formally regulated by law by 2001. This concerned information and communication facilities for deaf citizens, the use of interpreters in *bestuurlijk verkeer* and in criminal law, and the quality of court interpreters.

There were also no legal regulations regarding the provision of NGT interpreters in criminal proceedings; a judge could refuse the presence of an NGT interpreter and there were no measures for accessibility in *bestuurlijk verkeer*. The most important articles from the Act and the WvSv in relation to *rechtsverkeer* are listed below. At the same time, we will examine the extent the implementation of NGT for interpreters, NGT in general and in criminal law has been facilitated, and what arrangements have been put in place with regard to the quality of court interpreters. It is important to pay attention to these legal provisions, as these articles are a common thread running through the interviews with participants, which are introduced and cited in the next section.

The Act came into force in 2021 and includes 14 articles. Articles 6 and 7 deal with the use of NGT in *bestuurlijk verkeer* and *rechtsverkeer*. Article 6 states that a deaf sign language user has the right to use their

language in a hearing. That right means that a sign language user has the freedom or is authorized to indicate that NGT is their preferred language. Measures must then be taken to guarantee this right. Article 6 further states: “A sign language user who speaks ex officio in court or is obliged to submit to an interrogation or is authorized to speak, is authorized to use NGT.”

Article 7 deals with the use of NGT during a hearing. If a sign language user indicates that they use NGT, the immediate environment in the hearing must take measures for this in the form of guaranteeing a NGT interpreter. The judge has a role in this as stated in Article 7:

If a suspect, party, witness or interested party wishes to use NGT at the hearing on the basis of Article 6, the judge who presides over the hearing will determine ex officio or on request if necessary that assistance is provided by an interpreter. Article 276 of the WvSv applies if the investigation in court takes place in the context of a criminal case.

The Act applies across both *bestuurlijk verkeer* and *rechtsverkeer* and developments in both areas will now be considered.

NGT developments in *bestuurlijk verkeer*

In the field of *bestuurlijk verkeer*, after 2001 a number of important developments gradually took place. For example, parts of the central government website have been translated into NGT, such as information about child benefit, the donor registry, health insurance, social assistance, and the General Data Protection Regulations. Downloadable videos with transcripts are also available (De Rijksoverheid 2026a; 2026b).

NGT developments in *rechtsverkeer*

Very few developments have taken place in the field of *rechtsverkeer*, with the exception of the WvSv. Since 1997, there has been University College (HBO) training for NGT interpreters in the Netherlands, but this did not and does not offer a specialization for court interpreters. The SIGV Tolken en Vertalers (Foundation Institute of Court Interpreters and Translators, SIGV) has been delivering a training course, “Court Interpreters in Criminal Cases NGT”, since 2008.¹ This training is only open to qualified NGT interpreters who wish to specialize further and qualify for protection under the Sworn Interpreters and Translators Act (Wbtv). To be permitted to carry out legal assignments, registration in the *Register van Tolken*

¹ Note that at the beginning of January 2024, SIGV declared bankruptcy and KTV Kennisnet took over.

en Vertalers (Register of Sworn Interpreters and Translators: Rbtv 2026) within the *Raad voor Rechtsbijstand* (Legal Aid Board) is mandatory.

However, an Rbtv registration (which requires an interpreter to be able to function at C1 level of the Common European Framework of Reference for Languages (CEFR)² does not require specialized training as a court interpreter. In the Rbtv, 33 NGT interpreters are registered with a C1 level. Of these 33 NGT interpreters, only five have³ completed the specialization “Court interpreters in criminal cases”, or 15%. The other 28 interpreters (85%) are listed in the register as qualified HBO NGT interpreters and do not specialize in criminal court interpreting.

The Wetboek van Strafvordering (Code of Criminal Procedure) and the role of interpreters

Articles 276, 260, 274 and 275 of the WvSv collectively regulate the availability, role and use of interpreters in criminal proceedings. Article 276.1 establishes that, if an interpreter is needed, the responsibility for arranging interpreters lies with the Public Prosecution Service. And only individuals who are not already participating in the proceedings in another capacity may act as interpreters (Article 276.2). This article is a matter of great concern among NGT interpreters as, due to interpreter shortages, they may feel compelled to interpret for both the suspect and the prosecution in the same case, in the absence of another interpreter. This practice raises procedural concerns, particularly in relation to the right to a fair trial.

In addition to the provisions of Article 276 of the WvSv, Article 260.1 authorizes the public prosecutor to summon interpreters and to require an interpreter be called if the suspect does not speak the Dutch language or does not have a sufficient command of it. Where a suspect has insufficient command of Dutch, Article 260.5 further requires that the suspect be informed in writing, in a language they understand, of the summons and key procedural information (Article 260.5).

Articles 274.1 and 274.2 provide that suspects who are unable to hear, can only hear very poorly, or are unable to speak must be assisted by a suitable interpreter, or, in some circumstances, through written

² Language proficiency in a foreign language is indicated in six proficiency levels, ranging from A1, A2 (basic user) to B1, B2 (independent user) to C1, C2 (proficient user).

³ Note that the data in the Rbtv register appears to not be up-to-date. 16 language-specific interpreters have been trained, 13 of whom are actively working, 2 are no longer active and 1 has stopped. This group was tested for translation from and to NGT. There are also 2 sign language interpreters and 3 written interpreters who have completed cross-language training (personal communication, 18 June 2024).

communication. Article 275.1 stipulates that criminal proceedings may not proceed without interpreters where required, and Article 275.2 that any statements made in court against the suspect cannot be relied upon unless interpreted.

In summary, the articles in the WvSv state that an interpreter must be used at all times in all situations where a person does not speak Dutch or does not speak it sufficiently well, and that an investigation or case must be postponed if an interpreter is not present.

It is remarkable that Article 7 of the Act seems to have imposed a restriction on this. Article 7 states that the judge who presides over the hearing determines *ex officio* or on request whether to provide assistance by an interpreter, even if the judge himself has no knowledge of NGT and the Dutch language proficiency of the defendant. If no interpreter is available, this is a violation of the law because discrimination on the basis of disability is prohibited by law in Article 1 of the *Grondwet* (Constitution). Article 13 of the United Nations Convention on the Rights of Persons with Disabilities 2006 (UNCRPD) also states that the Netherlands has the obligation to guarantee access to a judicial body, including procedures and facilities.

[D] FINDINGS

This section presents findings from the interviews and written correspondence, grouped by the three question areas addressed.

The way in which interpreters are, or are not, used

When asked how Article 7 should be interpreted, the respondents gave answers that correspond to each other.

The professor of criminal law stated:

It is an omission in Article 7 of the Act that Article 260 of the WvSv is also not mentioned. Reasonable interpretation of the law may entail that the public prosecutor also calls an interpreter as referred to in the NGT Recognition Act for the hearing. Incidentally, I think the reference to 276 is rather meagre. A suspect has the right to an interpreter at various stages of the criminal investigation (see, for example, art. 23 Sv, art. 27, 29b Sv). The same applies to the victim (art. 51c Sv). I do not see why at those stages they should not be entitled to a sign language interpreter. At the same time, the law is very limited in this regard.

The sign language interpreter indicated:

I know of another law that states that it must be checked, checked whether the suspect can follow/understand. But that is not enough in terms of content. Reference must be made to the other law [Article 260]. ... only that one [Article 7], which the judge decides, I don't think that's good. ... Why does it determine it? We were just talking about communication: we can communicate well with each other, you can follow Dutch. Then there is no need to arrange an interpreter, that is not necessary, we will talk to each other.

The expert witness formulated:

I find this strange, that the judge determines a request for an interpreter in legal aid. So the judge decides whether or not an interpreter may be used? I think that's a bit strangely formulated. In explaining why: Actually, it says: submit a request and then the judge must approve the request with yes or no. The judge then has the power to say: you speak well enough, an interpreter is not necessary.

The public prosecutor further stated:

Interpreters should always be used, there should be no discussion about that. There is no debate or discussion about whether an interpreter is needed

The operation of legal procedures during the criminal process

In response to the question regarding the right to a fair trial and interpretation arrangement, the professor of criminal law indicated that this right is absolutely paramount, and formulated it as follows:

The right to interpretation is part of the right to a fair trial. Without interpretation, there is no fair trial. Especially when it comes to interpretation, the rules are strict: there must be an interpreter at the hearing. If there is not, the hearing cannot take place. As a rule, the judge may not conduct the hearing in another language.

The sign language interpreter indicated:

As far as criminal law is concerned, it is reasonable because it is enshrined in the law that an interpreter must be arranged, already at the time of summons. But civil law, family law, criminal law, juvenile law, cases continue without an interpreter. You also do not have an interpreter in the preliminary and follow-up phases. ... The interpreter is a final piece. ... The problem is the late application; The interpreter is a final piece. For example, the court arranges (1) the judge, (2) clerk, (3) summons, (4) lawyer and that's it. Oh yes, we forgot the interpreter ... and then they report it to the deaf person. He has received the summons and thinks: oh dear, I need an interpreter. The court does know that it is a deaf person, that is clearly stated in the documents. The interpreter (that's me) is only requested 1 to 2 weeks in advance. I usually can't do it anymore.

The expert witness commented:

I would actually leave it to the lawyer of my own party, my own lawyer. The lawyer who has to defend the deaf person can say to the court: this person needs an interpreter. That lawyer can then consult with the clerk and arrange it. Not with the other party [the Public Prosecution Service], because they determine how good or how bad an interpreter is who is summoned. He will choose an interpreter for the deaf person, but the deaf person may not want that interpreter at all. That affects the court case.

The public prosecutor formulated as follows:

The government must guarantee the right to a fair trial. The interpreter is called by the judge and the administration of the Public Prosecution Service arranges the use of the interpreter. ... The police also make the file stating which interpreter is needed. If the file shows that an interpreter is needed, the administration of the Public Prosecution Service will call the interpreter. This is regulated in Article 260 paragraph 1 of the WvSv. ...

It is very important in criminal law that the judge, the public prosecutor and the lawyer can communicate with the suspect and the victim. ...

If it turns out at the hearing that this is not the right interpreter or that an interpreter should be provided because the suspect does not understand, the court can order that an interpreter be called. Formally, this is stated in Article 276 paragraph 1 of the WvSv. In practice, this means that the case is adjourned and that the public prosecutor (read: the administration of the Public Prosecution Service) summons the interpreter for the next hearing.

The legal problems that many deaf people encounter

In answer to the question about the right to use a language of one's choice and the use of interpreters, the expert witness responded as follows:

But the Dutch language proficiency should not matter. This can be your mother language, or one of the two mother language of a deaf person. A deaf person should also be able to call an interpreter. The level of Dutch really shouldn't matter. ... Moreover, language proficiency can be influenced. A deaf person speaks well, there is no need for an interpreter: you can't just do that. Suppose a person was raised bilingual and signs fluently. That is actually discrimination on the basis of language.

The public prosecutor stated the following:

I can imagine that this argument can also play a role in the use of NGT. For example, someone can speechread very well and speak well themselves. Then a hearing could go ahead. But even in that case, you have to strive for the best language in which people can express themselves.

That is why Articles 6 and 7 of the Act are important. This gives a person the right to use NGT if it is best for him/her, even if he/she can also communicate in another language. So that's where the Act fills in article 276 of the WvSv. Namely, if there is a choice, if there are several options, then the suspect may choose (has the right) to use the NGT.

The sign language interpreter indicated that there are complicated problems with emergency requests and interpreter deployment:

There is a back-up [on-call interpreters] for the Netherlands. When Tolcontact⁴ is called by the police, they do not mediate these requests. They only issue a list of specialist interpreters. The police must compensate the back-up from their own budget. But the judiciary does not currently contribute to this back-up service.⁵

When an interpreter cannot be found, communication is often used in writing in Dutch. Since this is not the mother language of the deaf, miscommunication can arise and emotions and deeper meanings fall away.

The public prosecutor expressed concern about the change in the organization of interpreting services:

There is also an organisational story. The Public Prosecution Service is now calling the interpreters through the interpreting agency that is organisationally located at the court. But the services of the interpreters are put out to tender and will go to a commercial provider this year [2023]. This means that this provider will also be able to negotiate the price with interpreters. I find this worrying, because the organisation of the interpreters is then outsourced externally and there is less control over quality guarantees.

[E] DISCUSSION

The results of various themes are summarized below, including participant explanations, identified issues, and consequences derived from interviews and written correspondence. Three themes were identified through the ELAN analysis of the interviews and written correspondence: first, the interpreter as the final piece; second, omissions in the law; and third, unfamiliarity with Deaf culture. We shall now explore each in turn.

⁴ A mediation service for sign language interpreters.

⁵ Why the Justice Department does not contribute is a question for follow-up research. It is important to emphasize that Tolcontact only processes applications that are reimbursed by the UWV. UWV is the government service that grants interpreting facilities for living, working and educational hours to deaf individuals and pays the fee to Tolcontact.

The interpreter as the final piece

The first theme that is mentioned by far the most is what we will describe here as “the interpreter as the final piece”. When the interpreter is seen as the final piece, this has all kinds of consequences for the quality of the interpreter, the way in which the quality of the interpreter is determined, the interpreter fee and the way in which the arrangement of an interpreter is organized, with the disparate ways in which an interpreter is arranged—with large differences between the regions—being a major concern.

An interpreter is only requested if it becomes apparent that deaf individuals are present during the hearing. From a budgetary perspective, an interpreter will only be called in if no other situational options are available. This is particularly problematic in penitentiary institutions, where the lack of interpreter services for deaf prisoners is a common issue. Lawsuits continue without an interpreter, often resulting in repeated adjournments due to the unavailability of one.

Specialized interpreters for justice are not always utilized; instead, a basic NGT interpreter is often selected. This distinction is not explicitly communicated to the client, as it is not clearly outlined in Rbtv. According to the Wbtv register, there are only five specialized judicial interpreters available for the entire Netherlands, which leads to ongoing issues regarding translation quality.⁶ The basic interpreter typically lacks legal expertise, resulting in lower translation quality that negatively impacts legal procedures. The chair swears in an interpreter if that interpreter is not registered in the Wbtv. Currently, anyone can be appointed as an interpreter, regardless of their language proficiency or qualifications and according to WvSv Article 274, paragraphs 1 and 2, the interpreter may simply be described as “a suitable person”.

The moderate remuneration for interpreters at the Ministry of Justice significantly impacts the quality of their services. Language interpretation services are often put out to tender, resulting in the public prosecutor losing vital direct contact with a permanent interpreting agency. Consequently, there is a risk of further declines in both remuneration and service quality due to market forces.

The judge employs a test to determine whether the suspect can follow and understand everything being said. The deaf defendant may quickly agree to this, often under psychological pressure. Dutch is enforced as the official language; however, it is presumptively assumed that the

⁶ See note 3 above. Information on numbers can be found on the *Raad voor Rechtsbijstand* (Legal Aid Board) [website](#).

deaf defendant's proficiency in Dutch is adequate. Key questions arise regarding the arrangement of an interpreter: who is responsible for this? Who decides that an interpreter can be summoned? The court issues orders, while the Public Prosecution Service contacts the interpreters. Article 7 of the Act mentions the judge's role, whereas Article 260 of the WvSv references the public prosecutor. However, Article 260 of the WvSv is absent from Article 7 of the Act, with only Article 276 included.

Omissions in the law: Articles 6 and 7

A second theme arising relates to omissions in the law, in particular Articles 6 and 7 of the Act.

Participants reported omissions in Article 6, which lead to misinterpretations regarding its formulation. Specifically, the authority outlined in the article indicates that it is not a duty but rather an allowance. This raises the question: who determines that this is permissible? The judge is responsible for determining the presence of the interpreter.

Omissions in Article 7 have also been noted by participants. What are the roles of the judge and the public prosecutor concerning interpreter decisions? Why are they permitted to decide whether an interpreter will be present? A suspect has the right to an interpreter at various stages of the criminal investigation, which suggests that an interpreter may only be utilized during criminal proceedings and not in other processes. Spoken language interpreters are engaged much earlier in the criminal process, whereas sign language interpreters are not. In Dutch courtrooms, proceedings are conducted in Dutch. This means that deaf individuals who do not speak Dutch or do not speak it sufficiently have the right to use their own language. An interpreter must be present to ensure the right to a fair trial; however, these rules are not consistently observed, resulting in court trials continuing without an interpreter. This means that the public prosecutor must be aware of these requirements before the hearing and is responsible for calling the interpreters. While the judge is vigilant about the need for interpretation, they do not initiate contact with the interpreter (as stated in Article 260, paragraph 1 of the WvSv). In addition, the right to an interpreter is explicitly stated in Article 6 of the European Convention on Human Rights and in Article 2 of the Directive on the Right to Interpretation and Translation in Criminal Proceedings (2010/64/EU).

Deaf individuals frequently experience language oppression and discrimination due to their deafness being perceived as a disability. As a cultural minority group, they face disadvantages in legal proceedings

compared to the hearing majority. Moreover, a lack of knowledge about Deaf culture and sign language contributes to a pervasive sense of distrust. As a follow-up from this, deaf individuals often grant permission for the use of particular documents too quickly, unaware of their rights and unaware that they are entitled to legal representation. Consequently, from the outset, the preliminary process and subsequent procedures go awry. Errors occur in documentation and procedures because deaf individuals provide consent without fully understanding their rights.

Unfamiliarity with Deaf culture

The third theme identified includes topics such as the lack of knowledge about deaf people about their rights, and unfamiliarity of hearing people with deafness and Deaf culture.

The right to an interpreter at various stages of the criminal investigation is not consistently guaranteed, leading to questions about the fairness of trials. Deaf individuals are often not informed of their basic rights from the outset, resulting in rights infringements. The Government has an obligation to ensure the right to a fair trial; however, there is often ignorance regarding the presence of deaf individuals, including defendants.

This lack of awareness is reflected in documentation at the beginning of the preliminary process. For instance, in cases involving youth care, a minor son may be a suspect while having deaf parents. Since the parents are legally responsible for a child under 18, their presence at court can cause surprise when others realize that they are deaf.

Dealing with deaf individuals should be uniform nationwide; however, this is not the case. Some regions pay more attention to the needs of deaf people than others, leading to a lack of harmonization in implementation.

Judges, public prosecutors, and lawyers often lack understanding of deaf individuals and their needs. While interpreters possess relevant knowledge, they serve only as intermediaries and operate under a code of confidentiality, prohibiting them from interfering in trials or interrogations. There is a pressing need for a centralized knowledge base where judges, public prosecutors, lawyers, and other relevant parties can easily access accurate information about deaf individuals, covering both legal matters and aspects of language and culture. This central knowledge base should be structurally maintained across the Netherlands, providing clear guidelines and descriptions of procedures pertaining to interactions with deaf individuals.

[F] CONCLUSION AND RECOMMENDATIONS

Following the official recognition of NGT in 2021, the report (Oyserman 2024) upon which this article is based looked at the implementation of the Act in *bestuurlijk verkeer* and *rechtsverkeer*. The data for this was collected in 2023. As long ago as 1997, recommendations were made to improve the implementation of NGT in this domain.

Based on the research results, a number of things have become clear. The relationship between the Act and the WvSv raises questions about the division of roles between the judge, the suspect and the interpreter. In particular, the interpretation of Articles 6 and 7 of the Act and Articles 260, 274, 275 and 276 of the WvSv is crucial.

The interpreter is seen as the “final piece”. All participants mention that this happens in daily practice. Reactive action is taken when judicial authorities are confronted with the fact that a case with a deaf person is imminent. However, the judicial authorities must act proactively on the basis of a centrally accessible scenario. The participants all agree that there must always be a guarantee that a registered legal interpreter will be used for NGT. The profession deserves more attention and better pay. The tendering process is cited as one of the main problems, causing a lack of oversight of quality. The participants also indicated that too much room is left in terms of interpretation with regard to interpreting use, as a result of which there is no harmonization in the Netherlands, and no guarantee. A *status aparte* (a specialized interpreting agency with knowledge of disabled people and with sign language interpreters, and associated good interpreting rates) would provide clarity for all parties, and create more urgency to properly arrange communication in matters with a deaf citizen. By arranging this, the legal right to a fair trial is better guaranteed.

Experiences of deaf citizens in court cases, as indicated by the participants, are not always positive, because they do not get full and unrestricted access to their rights, and their rights are not clearly explained. The quotes from the interviews and the written communication show that, in legal proceedings, cases are handled (or continue) without an interpreter. The lack of an interpreter is a violation of the law, as discrimination on the basis of disability is prohibited under Article 1 of the *Grondwet*. Article 13 of the UNCRPD obliges the Netherlands to guarantee access to justice, including procedures and facilities.

We have clarified how the Act has been implemented in practice in the domain of *bestuurlijk verkeer* and *rechtsverkeer*, and what has and

has not yet been achieved in the period 1997-2023. The Government ought to guarantee the right to a fair trial. In practice, however, there are uncertainties about how that right should be safeguarded and implemented. People often point the finger of blame at each other, and, of course, money plays a role in financing facilities for deaf people.

The interpreter is generally seen as the final piece. In addition, the absence of an interpreter and the quality of translation have a major influence on the course of the legal process. There is a great shortage of registered and qualified legal interpreters, which means that basic interpreters without knowledge of legal processes are also frequently called upon, and this may also include a suitable person who can sign adequately. Article 274 paragraphs 1 and 2 WvSv allows this. In order to guarantee the right to a fair trial, this should be removed from the law.

Finally, this research into the implementation of the Act in *rechtsverkeer* shows that many steps still need to be taken to optimize the laws, so that deaf people are also guaranteed their rights in legal traffic. The right to an interpreter must be guaranteed at all times from the very first moment a deaf person comes into contact with the police or judicial authorities.

In conclusion, we can say that the four recommendations for the domain *bestuurlijk verkeer* and *rechtsverkeer* have been partially realized. New recommendations are presented below.

Recommendations

In order to guarantee the accessibility of legal processes for deaf citizens and to successfully implement the laws, the judicial authorities, the police, and the Ministry of Justice and Security will have to take further steps. These steps will be described here.

To ensure the accessibility of legal processes for deaf citizens and to facilitate the effective implementation of relevant laws, it is imperative that judicial authorities, law enforcement agencies, and the Ministry of Justice and Security undertake several essential measures. First and foremost, it is crucial to employ interpreters for deaf individuals from the outset of legal proceedings. This practice should be widely communicated to both the Ministry of Justice and Security and the pertinent judicial institutions. Additionally, an independent and centralized reporting mechanism should be established, allowing the above-mentioned groups and their designated partners to support deaf individuals who encounter obstacles in Dutch legal procedures and are uncertain about how to

proceed. This reporting system should receive structural funding to ensure its sustainability.

A further recommendation involves the creation of a centralized knowledge base for law enforcement and judicial bodies, thereby enhancing access to vital information. Moreover, also necessary is the development of a procedural framework for interpreting services, in collaboration with *Nederlandse Beroepsvereniging Tolken Gebarentaal* (the Dutch Professional Association for Sign Language Interpreters, NBTG) and deaf interest groups, in conjunction with law enforcement and judicial authorities, as well as the Ministry of Justice and Security. This procedural framework should be systematically disseminated across all relevant departments, the police force and the judiciary. Furthermore, it is essential to avoid assigning a single interpreter to serve both parties in any legal matter and to amend existing legislation that permits the use of “suitable persons” for interpretation purposes. All newly enacted laws in the context of legal procedures and deaf individuals should be evaluated against UNCRPD and Article 1 of the *Grondwet*.

Additionally, it is necessary to revise the legal stipulation that grants judges the discretion to determine interpreter usage. Legal provisions must explicitly stipulate that NGT interpreters must also be certified for use in court and that these professionals must be given priority when deployed.

Lastly, to facilitate a swift increase in the number of qualified and registered judicial interpreters, a training programme should be initiated without delay. This initiative ought to be supported by consistent funding, ensuring fair compensation for legal interpreters over the long term.

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