

Madurodam, The Hague, 13. November 2014

Ladies and Gentlemen,

First of all I would like to welcome you very warmly here at Madurodam today. A special word of welcome for our foreign guests: Barbara Gagliardi, Alexander de Becker and Ronnie Eklund. And a special word of welcome also to the members of our Advisory Committee, the *Comité van Aanbeveling*: Ron Niessen and Barend Barentsen.

The Netherlands is a small country. And we all know this. But we do not really like it. That is probably why the website of Madurodam states: "In short, come and experience what makes a small country so big at Madurodam!" You will have the opportunity to do that at the end of this afternoon.

In the sixties we used to have a legendary Minister of Foreign Affairs, Joseph Luns. He held the post for 19 years. When Luns met John F. Kennedy, Kennedy is said to have told Luns: "The Netherlands is such a small country, you must have a lot of free time" to which Luns responded: "Not at all, it only means there are even more foreign countries". And that is true of course. It is quite good to be modest. Although, it must be said, modesty wasn't one of Luns' characteristics.

The fact that we are small is one of the reasons our Association is very pleased and honoured to be able to welcome speakers who will be able to give us a new perspective on the reform of the legal status of civil service. We can gain a lot by comparing the different models used for the employment relations of civil servants in other countries and from the experiences in other countries with the reform of those relations.

This is a special event. We celebrate the first five years of our Association for the Civil Servant and Law, the *Vereniging voor Ambtenaar & Recht*. And I think it is appropriate to do this in The Hague. It must be the city with most civil servants in the Netherlands. The Hague is the seat of the Dutch government and home to many government ministries. The Hague has always been the centre of politics in the Netherlands. The Hague likes to think of itself as the international city of peace and justice. In the Hague reside many organisations in the fields of international peace, justice and security. The International Court of Justice sits in the Peace Palace. Furthermore The Hague is the seat of the International Criminal Court, the Iran-United States Claims Tribunal, the Permanent Court of Arbitration, the Special Court for Sierra Leone, the Special Tribunal for Lebanon and the International Criminal Tribunal for the former Yugoslavia.

If you are interested in The Hague and the organisations based here (there are executive, academic organisations and NGOs as well) you can visit the internet site www.haguejusticeportal.net. I always find it fascinating to study that website because it (as the website says itself) "gives access to the work and the development of the large number of other international organisations, institutes and research centres based in The Hague, which are relevant to the pursuit of international peace, justice and security".

This website shows tangible evidence of how badly things can go wrong when governments go beyond the law; and of how much suffering is inflicted and of how complex it then becomes to administer true justice. Here you see this writ large. Anybody who goes to the site of the National

Ombudsman can find very different examples, this time on a national scale and in a one-on-one relationship between the authorities and the citizen.

The world over, civil servants are the hands and feet of those authorities. What they do and what they do not do (of course in addition to politicians and ministers) is crucial to the confidence that citizens place in their authorities. They serve the public interest. It is not for nothing that we call them civil servants. Serving the public interest is something that should be written into the DNA of every civil servant. The legal relationship between the authorities and the civil servant needs to take into account these special circumstances.

A further point in this respect is that the authorities inevitably play the role of legislator in addition to that of employer. The civil servant is both employee and citizen.

The civil servant has duties inherent to the civil service but must also be able to find protection against his own employer. This calls for balance which can be created in a variety of ways.

In essence, the system that we have in the Netherlands is 85 years old. The Act on public servants dates from 1929. When the General Administrative Law Act was put in place in 1994, the legislator specifically decided to position the legal protection that a civil servant enjoys within the system of the General Administrative Law Act while leaving this in essence unchanged. It is scarcely surprising that we are discussing the need to do something about this after so many years. Much has changed since 1929. My father was born in that year and would certainly confirm that.

But we also need to remain vigilant in our quest for what is special to the civil service and to embed this into the system. This is above all within the realm of the core values of the civil service. They can be safeguarded in a number of different ways: legislation, codes of conduct, education and professional training; these are all ways that allow core values such as reliability, objectivity, respect, and careful management of resources to be safeguarded.

On the other hand there remains the point that government, as employer, is entitled to expect loyalty and that it may, on occasion, require the civil service to observe restrictions on the freedom of speech. A civil servant should sometimes practice restraint or even silence in the public domain. On the other hand the civil service sometimes can ask to express disagreement within the civil service. How these elements are to be reconciled remains an interesting question, and above all one of searching for the right balance.

Our association was set up at the time to act as a platform for dialogue not only about the law affecting civil servants in the narrow sense but about everything affecting the link between the civil servant and the law. The issues that we have been talking about and the discussions that we have been conducting over the past five years within our association demonstrate the breadth of this field. And I am of the firm conviction that, even if the reforms are adopted, this field will remain broad. Anybody working in the public service remains a civil servant with a number of specific characteristics inherent to that function. The regulation under private law of the legal position will in no way diminish this.

The day before yesterday the Senate published an interim report and there still remain questions to be asked, as you can see from Parliamentary Papers no. 32 550 E. This raises yet again a number of the issues I mentioned, such as the question of whether the legislator may go against collective

bargaining agreements. Another issue that arises, that once again characterises the public sector, is the relationship between the freedom to conduct negotiations about working conditions and the Senior Public Servants' Remuneration Act (*Wet normering topinkomens*) that places a cap on the room for manoeuvre that is open in the public sector. The path ahead remains challenging.

Ladies and gentlemen, at this moment I would like to introduce to you to Barend Barentsen who will be your chairman this afternoon. But before that let me draw your attention to the "vertaalhulp" or translation tool you'll find in the bag you received at the entrance. This may help you to join the discussion and I want to invite you not to hesitate to do so. Hand-outs of the different PowerPoint presentations will be available for you at the reception table at the end of this afternoon.

Barend, the floor is yours!