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Psychological Expert Witnesses in Germany and the Netherlands

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DIVERSITY WITHIN UNITY

Both the legal system of the Netherlands and that of Germany are inquisitorial systems, at least for criminal cases. One could naively suppose that the differences in legal procedure between the two countries would be negligible compared to differences with accusatorial systems. And, indeed if one spends a day in court in The Netherlands and in Germany the two legal systems seem to share many features. The court—in both countries usually a three judge panel in cases of serious crimes—holds a much stronger position during trial than either the prosecution or the defense. For instance, the judge is the first to question the defendant and the witnesses, only after which the defense and the prosecution are given the opportunity to pose questions. One will look for a jury in vain.

In both countries, the criminal trial is much more envisaged as a quest for the truth, rather than a fair contest between two equal parties. The lack of adversarialness shared by both countries is especially noticeable in the role given to expert witnesses. Both the Dutch and German courts have a preference for expert witnesses appointed by an independent body: the court or the public prosecutor, the latter being a magistrate in both countries. Although the legal systems of the Netherlands and

Germany share such features, however, it would be rash to conclude that all inquisitorial systems are identical.

An investigation of the similarities and differences in treatment of expert witnesses by both countries is the aim of this article. We limited the study to the treatment of psychological experts in criminal cases. For reasons to be discussed below, we further limited the study to expertise in the field of credibility assessment. Within these limitations, however, we approached our task with a broad perspective. So, we compare the type of psychological experts engaged in both countries, the manner in which they are appointed, the reasons they are appointed and the tasks given to them, the instructions they receive, how psychological experts are supposed to conduct their business, the role they have in trial proceedings and, finally, which mechanisms, if any, exist to ensure the quality of their work.

METHOD

We conducted our study in two phases. First we analyzed the relevant articles of codified law (especially the two countries' codes of criminal procedure) and Supreme Court decisions in order to identify the rules that formally apply to psychological expert witnesses. Second we examined how and to what extent these formal regulations are reflected in daily practice and what guidelines have been established additionally. In order to gather further information about daily practice, we interviewed experienced psychological expert witnesses of both countries, as well as judges accustomed to working with psychological expert witnesses.

The available information does not allow for an assessment of the total number of forensic psychologists working as expert witnesses in both countries. For our study we divided psychological expert witnesses into two groups: The first are forensic psychologists whose main profession is that of expert witness. The second group consists of the experts who primarily work as psychotherapists or university researchers and only from time to time serve as expert witnesses. The interviewees were chosen in equal shares from both groups. Another selection criterion was equal spatial distribution of all interviewees within both countries. This made it possible to cover the habits of as many courts as possible in our inquiry. Such an equal distribution was especially necessary in Germany. Due to the country's larger size, experts in Germany work primarily for courts in their own geographical area. Most of the Dutch experts, however, stated that they regularly work for courts all over the country. This may be related to the small number of specialists who are at the court's disposal. Most of the Dutch interviewees work predominantly in the field

of credibility assessment. They agreed that less than ten expert witnesses work regularly as credibility assessors at Dutch courts. Finally, we should stress that the interviewees do not form a cross-section of all forensic experts in both countries. For the present study that is no problem, because we were interested in how experts are treated in the criminal justice system rather than their individual behavior. We interviewed one judge and several experts in each country.

FORENSIC PSYCHOLOGICAL ASSESSMENT

In both countries it has long been the task of psychological expert witnesses to assess whether a defendant was *responsible or not* for the crime committed—comparable to the insanity defense in Anglo-American criminal trials. Usually these assessments are done in co-operation between a psychologist and a psychiatrist. In addition, in certain criminal cases there is a demand for a *credibility assessment* from a psychological point of view. In Germany credibility assessment has a longer tradition than it does in the Netherlands (Bullens, 1998; Sporer, 1982; Undeutsch, 1989). In a fewer number of cases the expertise of psychologists is used in both countries, to assess the quality of *identifications* of the suspect by witnesses.[1] In spite of their concentration in specific areas, most of the expert witnesses we interviewed also regularly give opinions on matters outside their specialization. Moreover, experts frequently pointed out that there had been shifts in their specialization over the course of time.

The type of forensic psychological assessments most often conducted in both countries is a *first opinion report*. In such a report, a single expert gives an opinion on a particular case from a psychological point of view. Only very rarely is there a demand for a *second opinion*, for which a second expert is asked to conduct an independent assessment. For a second opinion, the expert sometimes carries out the same work as for a first opinion report. More frequent, however, is a *critique of methodology* used in a psychological assessment. These reports are based on a critical evaluation of the methodological approach and strategies used by the first expert. In the Netherlands there is usually no clear-cut distinction made between a critique of methodology and a second opinion report.

[1] Please note that there is great demand for psychological assessments in family law, for example in questions of child custody. Psychologists also work as expert witnesses for juvenile and labor courts, welfare tribunals and administrative courts. The areas are outside the scope of this chapter.

RESTRICTION TO CREDIBILITY ASSESSMENT

If psychological expert witnesses are asked how their clients select and appoint them, certain differences between the two countries' legal systems quickly become apparent. Differences were also identified between parts of one legal system (e.g., between civil and criminal courts) as well as within a single part (e.g., within criminal courts). There are differences in the appointment of expert witnesses as well as in the expert's role during the main hearing at court.[2] In order to produce a clear comparison between the two countries, we restricted our topic to the work done by psychological expert witnesses in Germany and the Netherlands in the field of credibility assessment in criminal cases.[3]

APPOINTMENT OF AN EXPERT WITNESS

Whereas the way of conducting a credibility assessment and the role of the psychological expert during the main hearing differ in several respects between Germany and the Netherlands, the two countries show fewer differences in the appointment of the expert witness.

The criminal codes of both countries stipulate that the public prosecutor is authorized to appoint an expert witness (§ 161a StPO, German Code of Criminal Procedure, *Strafprozessordnung*; Art. 151 Sv., Dutch Code of Criminal Procedure, *Wetboek van Strafvordering*). So is the judge

[2] There exist so many differences between an Anglo-Saxon trial and the equivalent in both the Netherlands and Germany, that we will use the term *main hearing*.

[3] That does not mean that there are no differences in the area of the assessment of responsibility of the suspect. In the Netherlands the psychological expert is usually not contacted directly by the court if a report is required on the suspect's soundness of mind. Usually the judge-commissioner appoints the Forensic Psychiatric Service' (FPS) as an expert mediator. An FPS psychiatrist then meets the accused for a short examination and gives an initial recommendation, stating what other examinations should be carried out and whether the person is suicidal. If a responsibility assessment is recommended, the case files are handed to the FPS psychologist, who in turn tries to find a suitable psychological expert to do the job. The FPS has a register of psychologists from for this purpose. The psychologists in the register either work as a full time expert witness or as a side occupation, next to their primary occupation in prisons or psychiatric hospitals. The FPS psychologist enters the name of the chosen expert in the criminal judge's blank order and sends this together with the case file to the expert. After writing the assessment, the expert returns the files with the report to the FPS psychologist who then examines the quality of the work and confers with the expert if necessary. Finally the FPS psychologist submits the report to the criminal judge who originally ordered the assessment. Occasionally, Dutch criminal judges also consult the FPS psychologist for a recommendation of an expert for a credibility assessment. In Germany the judge would contact the expert directly.

(§ 73 StPO; Art. 227 Sv.). These are the clients most frequently mentioned by the interviewees. Only one of the Dutch experts reported that he on rare occasions was asked to conduct an assessment directly by the police.

In both countries the defense usually has to be informed whenever an expert witness is appointed. In both countries it is also possible for the defense to ask an expert to conduct an assessment. In this case the defense selects and pays the expert privately. Such a report can be used as evidence at the main hearing. In neither country, however, does the code of criminal procedure provide rules for this situation. The German and Dutch specialists interviewed gave their impression that such private orders constitute a minority of total appointments. Nevertheless, there are experts who report that they receive the majority of their orders from the defense. A number of German experts tend not to accept orders by the defense at all, or only exceptionally. These specialists are afraid, on the one hand, of losing their independence. On the other hand they see their own credibility in the eyes of judges as being at risk if their opinion as an expert witness appears to be purchasable.

In both countries there are ways in which the defense can influence the court's choice of an expert. Criminal procedure stipulates the following:

Germany	The Netherlands
• The prosecutor (or judge) shall provide the defense with the opportunity to express his/her opinion before choosing an expert (Art. 70 RiStBV, *Richtlinien für das Straf-und Bussgeldverfahren*, Guidelines of Penal Proceeding and Fining System)	• The defense has the right to propose the names of one or more experts and has the right to request the appointment of one of these (Art. 227, section 2 Sv).
• The expert who is appointed can be rejected by the defense, by the prosecutor or by the private litigant for any of several reasons (§ 74 StPO), e.g., if it is possible to substantiate to the court that there is convincing doubt about the expert's neutrality.	• The defense has the right to appoint a second specialist to be present while the court-appointed expert is carrying out his/her examination (Art. 232 Sv). Furthermore, the defense has the right to order a second opinion report (Art. 233 Sv). • In both cases the second expert is subject to the same regulations as the expert appointed by the court and is paid out of public funds.

While the formal rights of the defendant in Germany are restricted to acceptance by the defense or rejection of an expert, the suspect in the

Netherlands is given broader rights. By law the suspect has the right to request the appointment of a particular expert, although this is dependent on the court's agreement. Additionally, Dutch law allows the defense to entrust an expert with a number of tasks. Moreover, it subjects this expert to the relevant requirements of the Code of Criminal Procedure and guarantees payment out of public funds. In the daily practice of German courts, the defense has a say in the appointment of an expert witness, too. Because of the narrower legal basis, however, it can be assumed that the possibilities of intervention by a defendant in Germany are also narrower, and are more dependent on the judge's (or the prosecutor's) obligingness. Because of this, the defense in Germany may be more inclined to take recourse to privately employing an expert, especially as the court will reimburse the expenses later, depending on the circumstances. A privately employed specialist is not subject to the criminal procedure that applies to expert witnesses appointed by the court. This fact, together with the financial pressure under which freelance experts operate since they depend on their reports for their personal income, may explain the reluctance of some German interviewees to accept appointments by the defense. The lack of integration in criminal procedure and financial dependence on the client may indeed lead some experts to bias, as one German judge interviewed reported. If this assumption is correct, it would facilitate the establishment of the truth if all experts worked under the same rules. In addition, payment of the expert out of public funds, as is the case in the Netherlands, would be advantageous.

ORDERING A CREDIBILITY ASSESSMENT

If the decision is made to bring a psychological expert into the case, the client—judge, prosecution or defense—chooses one. In the Netherlands, as already mentioned, only ten psychologists accept orders of credibility assessments (three of these experts exclusively produce critiques of methodology). In both countries the client is totally free in the choice of an expert. In Germany, where many more experts are working, the client usually consults an expert with whom he or she has previous satisfactory experiences. Recommendations by colleagues are most often used when contacting new experts. Other circumstances that may lead to the employment of a new expert are personal acquaintance, interviews with potential experts, acquaintance with the expert through published work, or the expert already being involved in the case (e.g., as therapist of the alleged victim). The time an expert needs for doing the work is another important consideration in clients' choice of an expert. In

Germany in the interests of economy (traveling time), the expert should be geographically close to the person to be examined.

In both countries the employment of an expert usually starts with a phone call by the client. Topics discussed in this call include a description of the case, date the report is to be submitted, and questions and requests of the expert. Only rarely does the client ask questions about the expert's competence. According to German law (§ 73 StPO) the judge has to make an *arrangement* with the expert, whereas the Dutch judge is authorized to *stipulate* when the expert will begin and end the examination (Art. 229 Sv.). Both countries formally recognize experts' obligation to accept appointment as expert witnesses (if particular conditions are met: § 75 StPO; Art. 227, section 4 Sv.) as well as the right of refusal to act as an expert witness (again, only when particular conditions are met: § 76 StPO; Art. 217 Sv). In daily practice, however, the psychological expert witness may refuse an order, for example because of lack of time or because he/she does not feel competent in the case at hand. Unofficially, interviewees named additional reasons for refusing an order, such as negative experience with a client in the past. Another reason experts gave for refusing an order from a defendant is when the expert has the impression that the defendant is guilty as charged. Once the expert and the client have come to an agreement, the expert always receives a written order. Usually the whole case file or relevant parts of it are enclosed. Infrequently, the client sends the order (including the other documents) directly by mail without phoning first. In both countries the law provides for the deadline for submission of the report to be extended by the client if compelling reasons exist (§ 224, Abs. II ZPO, Zivilprozessordnung, Code of Civil Procedure, cited from Kleinknecht & Meyer-Grossner, 1997, p. 216, Art. 229 Sv).

At some point in the assessment, the Dutch expert has to swear an oath that he/she will carry out the assigned task to the best of his/her ability. Besides ordinary expert witnesses, there are also specialists in the Netherlands who are permanently under oath. They need not take an oath every time they accept an order. For privately assigned specialists, no swearing in is necessary. When they appear personally at the main hearing, all Dutch experts must take an oath (Art. 296 Sv). German experts are sworn in only if the judge regards this as advisable, or if the prosecution or the defense demand this (§ 79 StPO). The swearing in takes place after the expert has presented the report orally at court. This means that German psychologists become forensic expert witnesses merely by accepting an order; other formal steps are not necessary. It seems unlikely, however, that these difference in procedure between Germany and the Netherlands have any effect on the quality of the reports.

THE INSTRUCTIONS TO PSYCHOLOGICAL EXPERTS

In both countries the written order to the expert usually specifies the questions to be answered. Below, two examples are given of such questions posed to psychological experts for a credibility assessment.

Germany	The Netherlands
Can the statement of child X concerning the accused Y be considered credible?	What information, recommendations, and arguments based on observation or behavioral research are you able to put forward concerning the statement of child X? What further remarks do you regard as important to the consideration of the court?

In the Netherlands the experts interviewed agreed on two aspects of questions posed to them: (1) The questions are often formulated inaccurately or are impossible to answer from a psychological point of view. (2) Such questions usually have to be reformulated by the psychologist, i.e., reformulated in a fashion that makes it possible to answer them in the sense of a strictly psychological assessment. German interviewees did not mention similar criticism. This does not necessarily mean that orders in Germany are more suitably formulated. One German expert, who also works as a university professor, pointed out that he views it as sufficient if the term credibility assessment appears in the written order. As the conducting of a credibility assessment in Germany follows strict guidelines—to be discussed below—there is not such a strong need for precision in the formulation of the order (Wagenaar, 1998, proposes adopting such guidelines in the Netherlands).

CONDUCTING A CREDIBILITY ASSESSMENT

Two Different Starting Points: Videotape vs. Personal Examination

The basis for conducting a credibility assessment differs greatly between the two countries in one particular aspect. The German expert meets the witness—usually a child—and examines the witness personally, if necessary several times. The Dutch expert, in contrast, very rarely meets a witness under the age of twelve whose credibility is to be assessed. The reason for this is the Dutch custom to spare a child who has

been allegedly sexually abused from having to recount in detail on more than one occasion the abuse they suffered. These children are interviewed in a specially equipped police studio which provides an environment suitable for children as well as enabling the police to record the interview with cameras. The questioning is carried out by specially trained police officers. Some experts interviewed, however, criticized the quality of this police work. In some cases, e.g., for children with a learning disability or a behavioral disorder, a psychologist is also appointed to be present at the interview. According to the psychologists we interviewed, of about 1100 interviews of child-victims per year in the Netherlands, a psychologist is present at about 100 of them. Very young children are interviewed by psychologists. In some cases a psychologist not present at the interview is asked to assess the credibility of the child's statement, based on the video of the interview. For that purpose the expert receives, in addition to the case files, a videotape of the interview and a transcription of it. The Dutch expert therefore does not have the possibility of using psychological diagnosis (such as IQ tests) if the child whose credibility is to be assessed is below the age of 12. If the material provided is insufficient for an assessment, it is possible for the psychologist to receive permission to personally meet the child.

In Germany the expert usually meets the alleged victim whose credibility is to be assessed. The child has previously been questioned by trained police staff. This usually happens at the beginning of the preliminary proceedings. A ruling by the Federal Supreme Court of Germany (BGH, 30.7.99, 1 StR 618/98) specifies that if a sexual offence is suspected, a psychologist should be present when the child is interviewed. This appointed expert is usually a specialist in child psychology. In case a credibility assessment is needed later, however, the ruling does not explicitly state whether the same psychologist or a second psychologist (as in the Netherlands) should be appointed.

The German interviewees explained that, after receiving an assessment order, their first step is to study the case files. Most of the German interviewees explicitly stated that their next step is the formulation of questions relevant to the case and their research method. One of the interviewees emphasized that she always informs the child or the child's guardian that the examination is voluntary, when an appointment is made for the examination. She also pointed out that she makes sure that the judge has informed the child of its right to refuse to be questioned. This consent serves a special purpose: only if a consent has been obtained, is it possible for her as an appointed expert to use the information given by the child during the interview at the main hearing.

This German expert customarily visits the child at the child's home. Her reason for doing so is that the child feels more comfortable in this

environment, and at the same time she gets an impression of the family atmosphere. She makes exceptions only if the child shares the house with the accused. During the whole examination only she and the child are present in the room. The dialogue is always recorded on tapes. She spends about five to eight hours a day with the child. In some cases—where there has allegedly been only one instance of abuse—she visits the child only once. Other experts consider a minimum of two shorter visits as necessary.

The information provided by Dutch experts differed markedly on this point from the information given by German experts. In addition to the case files, Dutch experts base their assessments on the content of the videotape and the transcript of the tape only, and do not examine the child directly. German experts, in contrast, personally get to know the child, in its home environment, over a period of several hours. During and outside of this meeting they can collect specific information necessary for the case at hand:

- by observing the child (including the tape and transcription)
- by using psychological diagnostic instruments (to assess the child's IQ, power of imagination, suggestibility, or ability to recall memories, particularly memories of other experiences around the time of the suspected abuse)
- by questioning a third party (e.g., the parents or guardians of the child, the child's teacher, or the person who heard the child's initial statement).

In contrast, German law authorizes the expert to request the judge or prosecutor conduct further investigations, for instance by interrogating the suspect and other witnesses (§ 80 Abs. 1 StPO). The expert is entitled, however, to question both the witnesses and the suspect directly at the main hearing (§ 80 Abs. 2 StPO). The expert is not entitled to carry out an interrogation (*ibid.*). Nevertheless German psychological experts regularly question the child and other witnesses before the main hearing in order to collect information for the credibility assessment. That seems to be a contradiction to German law and the German Supreme Court (BGH, 30.7.99, 1StR618/98) leaves this question explicitly undecided.

In Germany as well as in the Netherlands some of the experts reported that in some cases they consult medical colleagues on particular issues presented in those cases.

Impact of Difference of Quality

It seems that the German expert is provided with a wider range of information than the Dutch expert, as the child can be observed in its

home environment, other people who have a personal relationship with the child can be interviewed and psychological diagnostic instruments can be used. One might assume that the relatively higher quality and quantity of information contributes to the reliability of the expert's assessment, even though it remains unclear just how much more reliable such an assessment would be. It is not possible to arrive at a clear answer to the question whether the German way inevitably leads to a better assessment. Instead, the question should be whether the gathering of detailed information for non-therapeutic purposes justifies the repeated confrontation of a child with memories of the abuse suffered. In essence there are two conflicting priorities: to gather information which is as reliable as possible, in order to establish the truth versus the need to protect the child's well being.

In the Netherlands the basis of assessment is the videotape of the child's interview in the police studio and the transcript thereof. If the alleged victim is older than twelve years, Dutch experts always meet with them to conduct a psychological examination, e.g., by means of personality, suggestibility and IQ tests. In accordance with Dutch law, the judge, the defense lawyer, and the prosecutor, as well as a second expert appointed by the defense, may attend this examination (Art. 231 and 232 Sv). In German law there is no such provision.

Court Rulings on the Analysis of Statements in Germany

On 30 July 1999 a ruling by the *Bundesgerichtshof* (Federal Supreme Court of Germany; BGH) outlined particular scientific requirements for the psychological assessment of statements (1 StR 618/98). This ruling gives a number of criteria for the content and presentation of credibility assessments ordered by courts. It stipulates that the objective of a credibility report is the critical assessment of whether a statement of particular events can be considered as true. This means that the examination concentrates on discovering whether the subject has really experienced the stated facts or not. The methodological strategy should entail denying credibility until the collected information prove the validity of the statement. In order to test the hypothesis that the statement is not true, at least one other hypothesis must be formulated. If the test leads to the conclusion that the hypothesis is incompatible with the facts, then the hypothesis that the statement is not true is rejected and is replaced by the alternative hypothesis.

This provision by the BGH results in the necessity of a diagnosis led by hypotheses. When searching for such a diagnosis, only appropriate scientific methods are permitted to be used. A detailed description of the methodological approach for an analysis of content—which concentrates on the qualitative assessment of a single statement—and a continuity

analysis—which concentrates on the chronological order of several statements—are therefore formulated. The method used for the content analysis usually is Criteria-Based Content Analysis (CBCA, see Horowitz et al., 1997; Lamb & Sternberg, 1997; Ruby & Brigham, 1997; Undeutsch, 1989). The conclusions resulting from both methods then must be compared to the specific experiences and competencies of the subject. There exist three methods of doing this: (1) An analysis of possible sources of errors, which focuses on the emergence of the statement and its development over time (this is to reveal, e.g., suggestive impact on the subject); (2) An analysis of motivation to ascertain whether motives exist that might lead the subject to express a false accusation; (3) An analysis of competence that examines whether the content of the statement may in fact refer to other (though similar) experiences of the subject, or is based on the subject's imagination.

In its decision, the Court discusses the present limits of statement-related psychological methods. The main criteria set by the BGH for the presentation of the assessment report are transparency and comprehensibility. The diagnostic conclusions are to be formulated in a way that can easily be understood by all attending the main hearing. At the same time the methodological strategy must be presented in a fashion that is comprehensible, at least to other experts. Certain binding standards are set that psychological experts writing credibility assessments must meet. At the same time, they are obliged to keep up to date on current scientific developments.

Critics of this BGH decision among the interviewed German experts argue that it occurs rather rarely that credibility assessments are not based on scientific methods of information collection, for instance by interpreting a person's character. Their criticism was mainly aimed at inaccuracy when carrying out the statement-related psychological methods as described above. Mistakes that impact the final results were considered the most serious ones (e.g., a lack of accuracy when testing an alternative hypothesis or a lack of consideration of the circumstances of the witness's initial statement, in other words, the possibility of suggestibility is insufficiently taken into account). In addition, mistakes were named which do not necessarily influence the final results (less serious methodological mistakes in the analysis) as well as mistakes in the form of the report (inaccurate reference to sources, weak distinctions between parts presenting the results and the interpretation, or the absence of a logical connection between the report and its conclusions).

Dutch Methods of Statement Analysis under Discussion

Up until now, the *Hoge Raad der Nederlanden* (Supreme Court of the Netherlands; HR) has not adopted a set of standards to be applied to

credibility assessments. In other cases (e.g., the analysis of blood samples for alcohol content) the Dutch court has provided a detailed description of methodological strategies that are to be applied by the medical expert (Corstens, 1993, p. 135). These guidelines are intended to increase the validity of the assessment, and are formulated in co-operation with a forum of experienced experts. Even for areas where quality standards exist, the judge should be open for a methodological critique of an assessment, as changes in methods might have taken place which lead to improvements. Therefore the Dutch Supreme Court was able to issue guidelines on the methodological approach to be used in credibility assessments as well.

On 30 March 1999 the Supreme Court of the Netherlands ruled on the reliability of a method that had been used by an expert in examining the credibility of a child's statement (HR 30 March 1999, *NJ* 1999, 451). An expert for the defense challenged the reliability of the method in that particular case. The HR ruled that, if a court uses such an assessment as evidence and the defense has argued against the scientific basis of the assessment, the court must argue in its decision why it uses the assessment as evidence nevertheless. In the case in which the HR gave this decision, an expert had assessed a child's statement using CBCA. Two experts proposed by the defense—both were Dutch university professors—had pointed out in a critique of methodology that CBCA used was not reliable enough and that a credibility assessment based on this method was not sufficiently grounded in science.

According to the Dutch interviewees, their credibility assessments usually rely on information obtained with Statement Validity Assessment (SVA) combined with other sources. Usually these are the case files, the videotapes, and also the results of the psychological diagnosis, if the expert has personally examined the subject. The SVA consists of two methodological techniques: CBCA (Criteria-Based Content Analysis) and VCL (Validity Check List). Both have been intensely criticized by Dutch researchers as a method for assessing credibility in court cases. According to Rassin, Merckelbach and Crombag (1997, p. 1929) the CBCA does not have a sound scientific basis. They conclude: "From a scientific perspective, the CBC can be seen as a promising instrument that needs further development" (p. 1929; our translation). Van Koppen and Saks (this volume) describe CBCA as a "fine example of psychologists who overstate their case in court." The Validity Check List (VCL) is, in their view, "neither based on sound empirical research..., nor is it limited to psychological insights." Several Dutch researchers criticize any use of SVA in court if all weaknesses of the method are not revealed to the court. They have carried their criticism of the methodology into the practical field in critiques

of methodology of first opinion reports and in published articles in law and psychology journals.

This debate seems to be the reason why Dutch experts who conduct credibility assessments as a main occupation spoke of major changes in their work in recent years. They said that earlier assessment reports contained an explicit statement as to the degree of credibility of the person examined. Nowadays they merely provide the judge with arguments for and against considering the statement to be credible. Alternatively, they explain on what grounds a hypothesis can be considered valid or not valid. Thus the final conclusion is now usually left to the judge.

Differences in Information and Analytical Methods

One of the judges we interviewed summarized the German situation as follows: the new guidelines recently rendered by the Federal Supreme Court (Bundesgerichtshof; BGH) are clear-cut standards that will safeguard the quality of credibility assessment reports. This judge believes that these guidelines strengthen the judge's authority. It is the judge's task to evaluate the quality of the reports. Now the judge's scope of action has been restored, whereas previously there was a dangerous tendency towards delegation of authority to experts.

In contrast, Dutch interviewees who are not university professors sketch a troublesome situation. They are appointed by the court to write a credibility assessment, which they carry out by using the SVA, a method that, in their opinion, has been developed using a scientific approach. Now, this method has been called scientifically insufficient in methodological critiques by academic researchers. Dutch interviewees felt uncertain how they should make assessments in future.

Given the present situation in *Germany*, the challenge will be to use the created clarity for safeguarding the quality of court-ordered credibility assessments. However, the regulations should not become inflexibly rigid, or be immune to knowledge resulting from new scientific developments. Although the Bundesgerichtshof has intervened in the work of expert witnesses on a large scale, the decision met with almost unanimous approval (Köhnken, 2000). Various authors (Balloff, 2000; Jansen & Kluck, 2000) pointed out that basically nothing has been changed by this significant, clarifying, establishing and, most important, determining decision of the Bundesgerichtshof. The highest court has not made fundamentally new demands on expert's work, but it established those standards as legally binding which are almost concurring disused and demanded for a long time in relevant text books by leading forensic scientists and experts. Burgsmüller (2000) criticized that a particular method claims general

validity in the field of deciding whether or not a testimony is believable. In her point of view on the one hand the method has not sufficiently revealed its own limitation in the face of the court. On the other hand the method offers a way of logic and rationality that can be seductive for people who work in the field of law; the method may have the appearance of clarity, which can deceive. Furthermore Burgsmüller emphasized that there is a risk that the competence of decision-making could be taken from the courts of justice in substantial spheres.

In *the Netherlands*, the challenge will be to find methods for credibility assessments that appear reliable in terms of scientific standards. At the same time, attention should be paid to the demands of daily work in court. An examination of the model of statement-related psychological assessments as known in Germany might lead to productive results, although a wholesale application of German methods to Dutch court procedure would seem extremely dubious given the differing circumstances. A number of methods and analytic techniques used in German credibility assessments are presumably not applicable, or applicable only in a limited way, in the Netherlands, especially for assessing the credibility of a child below the age of 12:

- In the Netherlands, collecting information to test a hypothesis is normally limited to the material provided (files and videotape). Thus, compared to a German expert, the Dutch expert relies on less diverse information, which is usually gathered by others.
- Dutch experts cannot carry out a continuity analysis, unless multiple statements by the child exist, which is seldom the case.
- When carrying out an analysis of competence, the Dutch expert cannot use psycho-diagnostic tests and results. Instead, the conclusion must be based on indirect means of observation.

In the face of these restrictions, the validity of a credibility report obtained by the German method of statement-related psychological assessment but carried out under Dutch conditions must be considered highly dubious.

THE MAIN HEARING

A main hearing does not take place in every case for which a Dutch or German expert has written a credibility report. Especially if the expert has concluded that the statement is not reliable enough or is even unbelievable, the prosecution will usually drop the case.

If a main hearing is held, reports and testimony of experts are considered as evidence, in accordance with criminal procedure in both countries. In other words, they provide information on which the court bases its final decision. In Germany as well as the Netherlands, the public prosecutor may summon experts to the main hearing (§ 161a StPO; Art. 260 Sv), and they are then obliged to appear (§ 161a StPO; Art. 213 Sv). In both countries there are legal consequences in the case of absence of an expert (§ 77 StPO; Art. 213 Abs. 2 Sv). Experts are treated to a large extent the same way as other witnesses (§72 StPO; Art. 227 Abs. 3 and Art. 296 Sv).

Apart from these common grounds, there are several differences between German and Dutch procedure. These differences result from difference in application of the principle of immediacy. The differences can be summarized as follows:

	The Netherlands	Germany
1. Written report	Always made. A copy of it is handed to (all or to a few) participants at the main hearing before it starts.	
2. Attendance at main hearing	The expert has to be present only in exceptional cases.	The appointed expert always has to be present in court.
3. Summons of expert	Expert is summoned by public prosecutor. Expert is obliged to obey this summons.	
4. Purpose of summons	Answering additional questions about the assessment.	Oral presentation of the assessment on the basis of all facts mentioned during the main hearing (it is the right of the expert to pose questions to the accused as well as to all other witnesses); afterwards, answering questions posed by participating parties at the main hearing.
5. Duration of attendance	As long as the expert's testimony takes.	During the whole main hearing (reading out of the charges, questioning of the accused and other witnesses, and summaries by prosecution and defense).
6. Information about expert	At the beginning of the expert's testimony, personal data (name, age etc.) are elicited.	

	The Netherlands	Germany
7. Swearing in	Always takes place before questioning (both as an expert witness and as a witness).	Prior to reporting on assessment the expert is cautioned (also as witness). If demanded by one of the parties, the expert takes an oath after presenting the assessment report.
8. Qualification of expert	Only rarely are questions concerning the expert's qualifications raised. If so, a short summary of the professional career suffices.	
9. Duration of presentation	Usually 10–15 minutes	Usually 30–45 minutes
10. Discharge of expert	By the court (frequently the experts are not informed of the final verdict in a particular case).	

The Main Hearing in the Netherlands

In the Netherlands the main hearing takes only one or two hours. Even in more complicated cases, this time limit is usually not exceeded. As a rule, only formalities are addressed during the hearing. Before the hearing starts, the judges, prosecution and defense have read the files. Apart from the court, the public prosecutor and the defense lawyer, the accused is often the only other person present. Frequently there are no witnesses or experts attending the hearing. The child who is allegedly the victim is never called as a witness. The European Court of Human Rights (ECHR) has reprimanded the Netherlands several times for this, as this is considered a violation of the principle of immediacy (van Koppen & Saks, this volume). According to some of the interviewees, there are signs of change.

The court often receives the assessment shortly before the main hearing starts, and may therefore have little time to study the report. In the opinion of one of the judges interviewed, this practice also seems to be changing. The reason reports are handed in so late seems to be that the judge, in ordering an assessment, instructs the expert that the report has to be submitted "before the main hearing starts." Most experts seem to take this very literally as "just before."

Normally, Dutch experts submit a written report. They are required to appear in court if they are summoned, but that only happens in exceptional cases, if for instance some important questions remained unanswered, if the assessment lacked formal clarity, or if one of the participating parties demands the presence of the expert at the hearing. The experts interviewed agreed that they appear in court in less than one-third of all cases.

The Role of a Psychological Expert during the Main Hearing in Germany

Before the main hearing, the presiding judge, the public prosecutor, the plaintiff, and the defense receive a copy of the written report. The jurors and the other judges on the panel, however, do not know the content of the assessment. They only receive information that is introduced during the hearing. Thus, in reaching a verdict the only relevant information is the information introduced during the hearing (this meets the requirements of the principle of immediacy).

The German adherence to the immediacy principle has two main consequences for the job of court-appointed psychological experts: (1) They always have to present the results of their assessment orally in court. Delivery of a written report does not suffice. (2) Formally, their oral presentation must be based solely on facts that are introduced during the main hearing. This inevitably leads to the need of the expert's presence during the entire hearing. This also means that the expert can digress from the prepared report in court, either because the person examined is suddenly incapable of recounting details of the offence, or because new information has come up during the hearing. The average duration of an ordinary main hearing in a German criminal court is one to two days, in rare cases a couple of weeks or even longer.

In contrast to Dutch psychological experts, the German expert appointed by the court is authorized to question all witnesses and the suspect during the main hearing. If necessary even the child who is allegedly the victim of an offence is questioned at court, but only under certain conditions. Usually the court expert is the last to take a turn in questioning the witnesses at court. Only rarely and in exceptional cases does the judge allow the expert to be the first to pose questions. Some of the German interviewees stated that they would prefer this more often, as it would make their job more efficient.

At a main hearing in Germany, the psychological expert's task is to answer particular questions on the basis of specific psychological methods. In the course of this, the expert is not allowed to digress into other disciplines such as medicine. The following example clarifies the psychological expert's use of testimony given by other parties at court.

At a main hearing the alleged victim states that she was raped by the accused. When questioned, she reports that she did not bleed even though there was penetration. A medical expert reports that the hymen of the alleged victim is undamaged but very flexible. Because of the hymen's flexibility, it is possible that there was penetration without defloration. The psychological expert can integrate the two statements by statement-related

psychological interpretation. It is a common occurrence that penetration leads to defloration of which bleeding is a consequence. If a woman would lie, it is probable that she would do so along these lines. However, in this case the alleged victim states something contrary to that. This statement being contrary to the expected one is compatible with the results of the medical examination, which were unknown to the alleged victim at the time of questioning. The victim is therefore reporting something very unusual, which may indeed apply to her physical condition. From a statement-related psychological point of view, it would be quite an achievement if the witness had lied. The expert can compare this aspect with other results of the psychological examination (e.g., test results) when giving the oral presentation. The German interviewees agreed, however, that in many cases no new facts are uncovered during the main hearing. This means that their presence at the main hearing is not always very productive.

The oral presentation of the expert's assessment follows the examination of all witnesses. At the beginning, the judge tells the expert to be impartial, to tell the truth and that punishment may follow any wrong information given intentionally or unintentionally.

Oral presentations by the German experts we interviewed seem to vary considerably. They range on the one hand from "reading to the audience" to "completely free speeches." Some stick to their written report and there are differences in the extent to which the experts include new information uncovered during the hearing. The oral presentation is followed by the questioning of the expert by other participating parties. According to the German interviewees, it rarely occurs that one of these parties demands the swearing in of the expert. Only very rarely is a German expert summoned to a following session of the court in order to answer further questions on the same case.

If the expert has been appointed by the defense, the assessment is not treated as "evidence given by an expert". Instead, it is introduced by the expert's employer as "present evidence". This means that the treatment of an expert's testimony as described above does not apply to an assessment ordered by the defense.

The Immediacy Principle as a Comparative Criterion

Most of the differences between the main hearings in Germany and the Netherlands stem from the different treatment of the immediacy principle. In both countries, immediacy is one of the fundamental principles of criminal procedure. According to this principle, the court must base its decision exclusively on facts that were obtained from immediate sources (Cleiren & Nijboer, 1997). The principle is mainly understood as implying

that the examination of witnesses and experts is carried out in the presence of the court and the parties in the case.

Strict adherence to the immediacy principle would have the following consequences for expert witnesses. An expert who has been appointed to conduct an assessment always has to attend the main hearing. There the expert must present the assessment orally to the court, in the presence of prosecutor and defense. After the presentation, the expert can be questioned by at least the court. In the Netherlands, these procedures are often not followed: the expert is usually not present in court, and if present, usually answers only questions directly related to the report submitted in writing before the main hearing.

The practice in Germany usually exceeds the requirements of the immediacy principle: The psychological expert must be present from the very beginning of the main hearing even though most of the other experts need not be. The psychologist has the right to question the suspect, the witnesses and other experts. The opinion of our interviewees on the necessity and usefulness of this varied widely, an issue that will not be explored further in this article. In addition, the question arises why German courts consider psychological experts' assessments of credibility to be so important and therefore entrust these experts with so many rights. This is another issue that will not be discussed further here.

THE QUALITY OF THE ASSESSMENTS

Legal Guidelines

In Germany a second assessment is ordered if the judge considers an expert's assessment as qualitatively unsatisfactory (§ 83 StPO). In the Netherlands a second expert may be appointed because of the judge's objections or at the request of other parties involved (Art. 235 Sv). Both codes of criminal procedure give several grounds for ordering an assessment by a second expert. In Germany a second expert can be appointed if (1) the qualifications of the first expert are doubted, (2) the first assessment is based on inappropriate premises, or (3) the first assessment contains contradictions (§ 244 Abs. 4 StPO). In the Netherlands it is even possible that in addition to the court-appointed expert and the expert appointed by the defense, a third expert is appointed. This is done if it is considered necessary (1) because of the methodology used in the assessment, (2) because of factual contradictions between the first two assessments, or (3) because of differences in the conclusions of the first and second experts. Although it is of course the courts responsibility to make

a final decision (Corstens, 1993, p. 135; Hellmann, 1998), both German and Dutch interviewees said that the court usually follows their conclusions.

In 1989 the Dutch Supreme Court ruled that a court has to explicitly explain its decision to follow the conclusions of an expert's assessment if that assessment has been seriously criticized by the defense (van Koppen & Saks, this volume). In 1998 the Dutch Supreme Court extended this decision, ruling that a court must determine (1) whether the expert was indeed a suitable expert for the particular case, (2) which method was used by the expert in arriving at the conclusions, (3) why the expert believes that the method used is sufficiently reliable, and (4) to what extent the expert is capable of competently using the particular method. These guidelines are considered by most of the Dutch interviewees as reasonable safeguards of the quality of assessments. The interviewees of both countries stated, however, that they had only rarely been required to give an account of their qualifications as a psychological expert witness.

The ruling of the German Federal Supreme Court (BGH, 30.7.99, 1 StR 618/98), which issued scientific standards for statement-related psychological assessments, is described above. This ruling also stipulates that the judge is in principle the one who must make sure the stipulated minimum scientific standards have been met. "If one of the parties involved in the case considers that the scientific requirements have not been met, it must request the appointment of a further expert when still at the instance of facts. If the court does not intend to accept this request ... a detailed explanation of the decision to reject it is normally required only if the requesting party has pointed out concrete shortcomings of the prior assessment. After that has happened, and before coming to such a decision, it is recommended that the prior assessor be heard and have the opportunity to give his statement with regard to the shortcomings referred to above" (our translation).

Apart from these legal guidelines, and the two supreme court decisions which we already discussed above (BGH, 30.7.99, 1 StR 618/98 and HR 30 March 1999, *NJ* 1999, 451), several quality guidelines can be found in the psychological literature for drawing up a psychological report in general (Berufsverband Deutscher Psychologen e.V., 1988; Kubinger, 1997; Westhoff & Kluck, 1998; Wurzer, 1997) or especially for courts. Van Koppen and Saks (this volume) have developed eight non-binding, self-imposed quality criteria. These criteria are the following:

1. The psychologist should be an expert on the particular subject matter on which he testifies and should explain in his report precisely why he considers himself an expert on the specific issues before the court.

2. The expert witness should show awareness of the limitations of her role. She should remain within her own domain and not intrude on those matters that are properly within the domain of the court.
3. Psychotherapists should never be expert witnesses on the value of evidence.
4. Psychologists who serve as expert witnesses should limit their testimony to subject matter for which psychology is relevant.
5. The psychologist should show that the testimony and the underlying research are relevant for the case in point.
6. The psychologist should show that she is competent to apply the specific method to the specific case.
7. Expert testimony encompasses application of scientific knowledge to a specific case. Thus, the expert should apply sound empirical research, must tell the court which results of research have been applied and why they are relevant to the specific case or its circumstances.
8. In applying sound research, the expert presents the court with sufficient basis for the court to assess its value, which depends upon the extent to which:
   a. It is grounded in the methods and procedures of science;
   b. It is based on empirical research, rather than the expert's subjective belief or unsupported speculation;
   c. The theory or method applied by the expert has been subjected to peer review after as well as before publication;
   d. The methods used are valid enough for the court to base its decision upon;
   e. The expert provides an accurate account of the discussion in the scientific community concerning the concepts or techniques being employed.

Further Safeguards of Quality

Three further means of safeguarding quality crystallized during our study. The following may be considered particularly effective (1) institutionalized research and publications; (2) education and professional training courses; and (3) changes in law, court and police practices.

Institutionalized Research and Publications

The degree of institutionalization of forensic psychology is fairly low at German and Dutch universities. Adding academic chairs of forensic

psychology would make expanded professional research possible. It would also help improve methods and diagnostic procedures related to credibility assessments. It is not enough, as one of the interviewees put it, to "extend old tracks"; university research should also aim at the development of new methods. This will make it possible to raise the quality of credibility assessments. The publication of new findings should not only be addressed to the international scientific community. Within each country such findings should also be made available to practicing psychologists and legal professionals. At the same time, an increased institutionalization of forensic psychology as a university subject could make an early specialization of psychologists possible, as is customary in other psychology sub disciplines. An academic center of forensic research could even integrate the approaches of different departments. Such an interdisciplinary center could at the same time offer continuing education programs, such as professional training courses for legal professionals and psychologists.

Education and Professional Training

During the education of psychology students, there should be a stronger emphasis on drawing up psychological assessments. Psychologists are often insensitive to the large differences between diagnoses for therapy and assessments in a forensic setting (Rassin & Merckelbach, 1999). Several interviewees doubted that law students should be trained to evaluate the quality of an assessment, as only a small percentage of law students will need this knowledge during their future career. Professional training courses were considered by those interviewed as particularly important: Experts should be able to choose from a large variety of training courses (e.g., on the use of specific diagnostic methods or on the implications of recent scientific research relevant to credibility assessments). Legal professionals should also be offered professional training courses (e.g., on quality control of psychological reports). The more legal professionals are qualified to evaluate the quality of an assessment, the likelier it is that, as a result of competition among experts, the quality of assessments in general will rise. The interviewees also mentioned as a measure for safeguarding quality that it would be useful if there were more courses to teach new judges and public prosecutors the relevant knowledge for dealing with psychological assessments. Postgraduate professional training programs in forensic psychology should enable qualified psychologists to achieve specialized competence while working as professionals. In both countries the founding of such continuing education programs is still in the planning stage. However, how do professionals in the two countries

acquire their qualifications now? All experts interviewed in both countries had completed their study of psychology and had chosen different ways of acquiring special skills: (a) through self-study, (b) by pursuing a psychology-related profession that included the writing of assessments (but not credibility assessments), (c) by participating in short training courses, (d) through learning by doing, and (e) through the individual help and supervision of an experienced expert.

Changes within the Law, the Court, and Police

The German experts stated that they consider the recent ruling on credibility assessments by the Supreme Court a measure that sufficiently safeguards the quality of assessments. A Dutch expert and university professor recommended the revision of all relevant passages of the Code of Criminal Procedure. Apart from that, interviewees proposed a number of pragmatic changes in police and court procedure:

- *Changes in the preliminary proceedings*: only specially trained professionals should carry out the initial interview with the alleged victim. Such an interview should always be videotaped and transcribed.
- *Changes in the appointment of experts*: The period of time between the discovery of an alleged offence and the appointment of an expert to write a credibility report should be reduced. There should be a clear definition of circumstances under which appointment of a psychological expert should be considered. The judge should consider more carefully whether a case in fact requires assessment by a psychological expert witness. In case the judge decides to appoint an expert, the judge should consider thoroughly what exactly needs to be found out, and should formulate a precise question to be answered. The judge should consider more carefully what expert qualifications are appropriate for the particular case. Psychotherapists should normally not be appointed as expert witnesses.
- *Changes in the main hearing*: The expert's report should be handed in well before the main hearing starts. The expert should explain in court what qualifies him or her as an expert on the particular case at hand. German experts would consider it an advantage to be allowed to question the witnesses at an earlier point in the main hearing, instead of being the last to question the witnesses.

The judges and the psychologists we interviewed emphasized the need for better communication between psychologists and legal professionals, both on an individual level, and in representative professional bodies. Clients should give clear feedback. Binding guidelines should be discussed and formulated by representatives of both professional groups. Regular communication could lead to a process of learning from each other.

All of these aspects are intended to raise the quality of psychological assessment reports. Most interviewees agreed that external control and compulsory selection of experts from a register would be disadvantageous. External control (proposed by for instance Nijboer, 1997) is usually understood as an external organ to monitor the quality of assessments. Nearly all of the interviewees of both countries suspected this measure would be dangerous, as it would enable a relatively small group of people to evaluate the quality of reports used in court. They pointed out that such a board of examiners could influence content and results. Several interviewees noted that this danger had been experienced in a part of Germany (Nordrhein-Westfalen) in the field of court-appointed culpability report writing.

In some countries (e.g., France) the choice of experts is limited to experts who are registered in a public list. In order to be registered, the expert's qualifications are examined. Interviewees mentioned several reasons for rejecting this form of quality control: (1) a group of people must decide who will be registered and who will not be registered. There is a high probability that the selection will be dominated by non-objective considerations. (2) A register of experts is usually not differentiated by expertise. However, it is crucial for the potential client to know whether a particular expert is qualified to do credibility assessments, or culpability assessments, or whether the expert is competent in identification cases. (3) Free choice by clients, combined with quality control of the resulting report, is enough to drive insufficiently competent experts out of the market or force them to improve their performance (principle of competition)—provided that the supply of experts is large enough.

A further aspect was described as highly delicate by several interviewees, namely the financial pressure under which expert witnesses do their work. This pressure entails several dangers for the highly qualified work of psychological expert witnesses. If financial pressure increases, experts will have less time to dedicate to continuing education or the study of new scientific developments. Furthermore, accepting too many cases will result in lower quality. There is also the danger that the expert will lack the time for extensive investigation needed in unusual cases.

Safeguarding the Quality of the Psychological Expert's Work: A Summary

The legislative bodies of both Germany and the Netherlands have entrusted the court with the evaluation of the quality of the expert's work. The legal guidelines available to the judge are neither numerous nor detailed. Thus a problem of competence versus competence arises: As the court lacks competence in a particular field, it consults an expert in order to use the expert's specific competence. Is it possible under these circumstances that a court can have the competence to evaluate the quality and results of the expert's work? One of the answers to that is that the court has to learn to evaluate the quality of an expert's work, for instance with the help of guidelines fixed by the Supreme Court or by following professional training courses.

The part of the expert's work that can be evaluated is the assessment report. The quality of such reports can be safeguarded in any of several ways: (a) through standards imposed by the experts themselves (e.g., as mentioned in Van Koppen and Saks' list of quality criteria), (b) through professional training courses for experts, and (c) through binding regulations for court-ordered credibility assessments which are established by representatives of all parties involved. Binding regulations for psychologists and legal practitioners for safeguarding and evaluating the quality of the assessment report have already been formulated in Germany. In the Netherlands this has not yet started. At the same time the qualifications of a particular expert should be checked. This means that experts would have to provide the necessary information about their qualifications, and that judges would have to evaluate these carefully in light of the requirements of the particular case. In contrast to Germany, the Netherlands already has a Supreme Court ruling on this matter. However, the ruling has not yet been put into practice.

Besides the judges, there are always other parties involved in a court case who are authorized to evaluate the quality of the report as well as the appointed expert's competence with regard to the case. If these parties express well-founded objections, the court must examine these objections seriously, and if necessary consult a second expert. In Germany as well as in the Netherlands, it seems that requests made by other parties are not always honored.

All of the measures discussed above are intended to raise the competence of all parties to appropriately evaluate the quality of credibility assessments. High quality assessments are a prerequisite for achieving the court's aim of establishing the truth. In this respect, two further means for safeguarding quality appear to be significant: (1) the institutionalized

development of scientific knowledge as well as its transfer to practitioners (through publications as well as tertiary education and professional training courses for both psychologists and legal professionals); and (2) assuring high-quality preliminary work, which requires good communication and co-operation among all groups involved in producing credibility assessments (police, psychologists, public prosecutors, judges).

CONCLUSIONS

In this article we described the present situation of psychological expert witnesses who are appointed to conduct psychological assessments for German and Dutch courts. We collected most of our information through interviews with psychologists and judges. In order to provide a clear-cut comparison of both countries, we restricted the study to criminal procedure in general and credibility assessments in particular. The comparison focused on three aspects of accessing credibility, in chronological order: (1) the ordering of an assessment, (2) the production of the assessment, and (3) the role of psychological experts during the main hearing. Similarities and differences were pointed out between the two countries (both are usually considered inquisitorial systems). The reasons for the differences and their consequences were discussed, focusing especially on the impact on the quality of psychological assessments. Several feasible measures that could be implemented to safeguard the quality of psychological assessments in Germany and the Netherlands are described.

In short we found that in the Netherlands all psychological experts conducting an assessment are more closely integrated in criminal procedure and the experts are paid out of public funds. This strengthens the impartiality of the appointed expert and contributes to the establishment of the truth.

When working on an assessment ordered by the court, there is a great difference between the two countries in the material available to the expert: The Dutch expert produces the credibility assessment mainly on the basis of videotapes of a single interview with the alleged victim. The German expert always personally examines the person whose statement is being assessed. The reason for this difference has to do with differing priorities in the two countries. In the Netherlands the well being of the child is considered most important. The particular type of information available to an expert inevitably influences information analysis. Since the Dutch expert does not have the same type of information available, the methods of psychological statement analysis developed in Germany cannot be transferred wholesale to the Netherlands. What, then, is a suitable

method of data analysis to use in the Netherlands? The present fierce debate in the Netherlands among researchers and forensic psychologists underscores the unresolved nature of this question.

The degree of integration of psychological experts in the main hearing is another point of difference between the two countries. It results from a different interpretation of the immediacy principle. Dutch court hearings do not conform fully to the immediacy principle. In Germany there is a tendency, to take this principle to an opposite extreme. Whether this is necessary and useful or whether it may have negative effects remains unclear.

In the future the issue of safeguarding the quality of the work of psychological experts continue to be an important topic of discussion in both countries because psychological assessments have a strong impact on the judge's verdict. This chapter suggests a number of quality standards (for both form and content) as well as measures to safeguard the quality of psychological assessments.