



Children's participation in Dutch youth care practice: an exploratory study into the opportunities for child participation in youth care from professionals' perspective

Stephanie Rap, Denise Verkroost & Mariëlle Bruning

To cite this article: Stephanie Rap, Denise Verkroost & Mariëlle Bruning (2018): Children's participation in Dutch youth care practice: an exploratory study into the opportunities for child participation in youth care from professionals' perspective, Child Care in Practice, DOI: [10.1080/13575279.2018.1521382](https://doi.org/10.1080/13575279.2018.1521382)

To link to this article: <https://doi.org/10.1080/13575279.2018.1521382>



© 2018 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group



Published online: 09 Oct 2018.



Submit your article to this journal [↗](#)



View Crossmark data [↗](#)

Children's participation in Dutch youth care practice: an exploratory study into the opportunities for child participation in youth care from professionals' perspective

Stephanie Rap , Denise Verkroost and Mariëlle Bruning

Department of Child Law, Leiden Law School, Leiden University, Leiden, Netherlands

ABSTRACT

Since 2015, local municipalities in the Netherlands have been responsible for the organisation of the youth care and child protection system. One of the basic assumptions underlying the new Youth Act (2015) is the mobilisation and empowerment of the family to help solve their problems. Consequently, the participation of children and parents is essential in the implementation of youth care services. However, it seems that substantial differences exist between municipalities in realising children's participation in decisions that are taken concerning their care and protection. This article provides an interdisciplinary perspective on child participation; it explores both the legal opportunities for participation and the extent to which children can make use of these opportunities in practice. It is concluded that municipalities have large discretion in giving shape to child participation in the access to voluntary and coercive youth care. However, child participation is better regulated and implemented in practice with respect to compulsory youth care via court orders. Throughout almost the entire process, the minimum age limit from when children are involved in the decision-making process is 12 years, which means that children below that age have scarce opportunities to participate.

KEYWORDS

Child protection; children's rights; child care law; child participation; social work

Introduction

Children have the right to express their views and opinion in all decisions that affect them and this right must be guaranteed in particular in decisions that are taken in judicial and administrative proceedings. This right of children to be heard is laid down in article 12 of the UN Convention on the Rights of the Child (hereafter: the CRC). The right to be heard can be exercised by any child¹ who is capable of forming his² opinion. This provision requires states to involve children in all matters that concern them. In addition, states must make decision-making accessible to children. On the one hand, this means that procedures must be adjusted to the age, level of maturity and evolving capacities of the child

CONTACT Stephanie Rap  s.e.rap@law.leidenuniv.nl  Department of Child Law, Leiden Law School, Leiden University, P.O. Box 9520, 2300 RA Leiden, Netherlands

© 2018 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group
This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

(see art. 5 CRC). On the other hand, the opinion of the child must be weighed, taking into account the age and development of the child and other interests at stake, in determining what is in the best interests of the child (in accordance with art. 3(1) CRC). The Committee on the Rights of the Child (2003) indicates that hearing children should not be an end in itself, but a means of achieving the rights of children (General Comment No. 5, para. 12). On a European level, in the *Guidelines on Child-friendly Justice* (2010), the right to participate is also put central and concrete recommendations are made with regard to the organisation of child-friendly procedures.

In addition to the fact that the right to be heard is a treaty obligation that arises from the CRC, a large number of studies show that participation for children has a number of positive effects. Positive experiences with participation can increase self-confidence, self-esteem and certain skills of children (Collins, 2017; Saywitz, Camparo, & Romanoff, 2010; Schofield, 2005). In addition, participation in decisions may have a positive influence on the development of autonomy and growing up into an independent adult, who is capable of standing up for himself (i.e. empowerment takes place through participation) (Lansdown, 2005). Children also learn important skills by participating in decisions, such as reasoning skills, learning to formulate an opinion and collaborating with others (Fitzgerald, Graham, Smith, & Taylor, 2009; Collins, 2017). Research in the field of health care shows that treatment outcomes are probably better when children are involved in decisions from the start of the procedure. Involving children in decisions improves their knowledge and understanding of the disease and the role they can play in it (Kilkelly & Donnelly, 2011; Vis, Strandbu, Holtan, & Thomas, 2011). If participation is successfully given shape, this not only leads to more positive outcomes of the treatment offered, but also contributes to the child feeling better (although long-term effects are difficult to measure) (Vis et al., 2011).³

In the Netherlands, little empirical research has been conducted about whether children can participate in decisions taken in youth care procedures (see for example De Jong-de Kruijff & van der Zon, 2015). Participation in youth care procedures and decision-making is not only necessary to comply with the obligations on states set by the CRC, but also because of the positive effects it may have on the development of children and their experience of the process (see further below). The aim of this study is to map the possibilities of children to participate in decisions taken during trajectories of voluntary youth care and compulsory child protection. First, recent research outcomes from previous studies on child participation in youth care and child protection are presented (section “Recent research findings on child participation in youth care”). Second, the method of research is explained (section “Method”). Third, the legal framework regarding participation in youth care and child protection is briefly outlined (section “Legal framework of the Dutch youth care and child protection system”). Fourth, the results of this study concerning the practical implementation of child participation are presented, regarding access to and implementation of youth care services and child protection orders (section “Professionals’ Perspectives on child participation in youth care”) and this article concludes with a discussion (section “Discussion”) and some concluding remarks (section “Conclusion”).

Recent research findings on child participation in youth care

Research into children’s participation in youth care and child protection in different countries generally shows an image of professionals who believe that children do not

have the skills and competences to be able to participate, but that they, on the contrary, should be protected against participation (van Bijleveld, Dedding, & Bunders-Aelen, 2015). Various studies show that the wishes and opinions of the child are only brought forward when they correspond with those of the authorities or the court (Masson, 2000; Leviner, 2011 in Leviner, 2018). Collins (2017) notes that children's participation has a number of important challenges and difficulties, for example; the opinion of the child is asked but has no meaningful influence on the decision (i.e. tokenism), feedback to the child on how his opinion has influenced the final decision is lacking or the institutional structure impedes the meaningful, effective and sustainable involvement of the child (see also Bessant & Broadley, 2014; van Bijleveld et al., 2015). From the international literature two common themes can be extracted: (1) a lack of understanding and feeling heard on the part of the children, and (2) a lack of skills and time on the part of professionals.

Lack of understanding and feeling heard

Research conducted in Sweden, concerning children who have been placed out of home, shows that children felt that they received insufficient information and that they were not listened to during the proceedings (Barnombudsmannen (Swedish Children's Ombudsman), 2011 in Leviner, 2018). Another Swedish study shows that in 79% of the child protection cases (concerning children between 12 and 14 years of age), the child's lawyer agreed with the care application of social services, while in 76% of these cases the child had a negative opinion about the proposed measure and the information in the application (Wejedal & Östlund, 2016 in Leviner, 2018).

Pölkki, Vomanen, Pursiainen, and Riikonen (2012) have studied the participation of children in foster care. This study, involving eight children aged 7–17 years, shows that children felt that they could not participate sufficiently in the stages of placement in a foster family. Some children indicated that they were not being listened to by social workers when they tried to address problems within their (biological) families. After being placed in foster care, most children felt that they were better listened to, because they could build a better bond with the social worker. For children, continuity, stability and familiarity with the social worker was important to enable participation. The children also indicated that they would rather not take an active part in formal meetings about the care that was offered to them, because they did not feel comfortable with that or because they felt that their opinion was not heard (Pölkki et al., 2012).

Block, Oran, Oran, Baumrind, and Goodman (2010) studied the involvement of children in dependency court hearings, concerning out-of-home placements in the United States. 37% of 85 children between 7 and 10 years old said that they did not feel believed or heard in court. In addition, this study shows that children have little knowledge of the process and what was going on during the court hearing, and had a negative opinion about the hearing. The older the child, the more knowledge it had about the process. It is concluded that the fact that children do not understand the process and their rights and do not know where they will be living may increase their negative assessment of the process (Block et al., 2010).

In England, child protection conferences are held, similar to those in the Netherlands (see section "Legal framework of the Dutch youth care and child protection system"), where care plans are made and information is shared with regard to the protection and care of children.

Parents and children are allowed to be present at the meeting and they should be able to express their views (Muench, Diaz, & Wright, 2017). Research among 26 children (aged 6–17) shows that most children did not understand the purpose and the reason for youth care and the process as a whole, and above all depended on information given by parents, rather than by professionals. The children indicated that they did not feel heard and were insufficiently prepared (Cossar, Brandon, & Jordan, 2011; see also van Bijleveld et al., 2015). Recently, Muench et al. (2017) interviewed 22 children between the ages of 8 and 18 and 26 parents about their experiences of the child protection conference. Nine of these children attended the conference. They all looked back disappointedly at it; none of them was told what the outcome of the conference was, none of them could reproduce what the purpose or outcome was and they experienced their presence as a waste of time.

Professionals' lack of skills and time

In accessing and participating in legal procedures, children are largely dependent on adults (Kennan, Brady, & Forkan, 2018). The relationship between for example social workers and children is seen as an important factor in making participation successful for children (Cossar et al., 2011; McCarthy, 2016; Kennan et al., 2018; van Bijleveld et al., 2015). Professionals are judged to be more positive by children when they listen to them. In addition, when being able to participate children perceive their own input as more important, they feel that they are treated more fairly and respect the decision more quickly (European Union Agency for Fundamental Rights, 2017; Cashmore, 2002). However, despite the positive effects that are accorded to participation in decision-making procedures, several studies on children's participation in care arrangements show an image of professionals who believe that children do not have the skills and competences to be able to participate, but that, on the contrary, they should be protected against participation (van Bijleveld et al., 2015). Social workers try to protect the child, but this protection is at the expense of the participation of the child. In addition, social workers feel that the effort it takes to have the child participate does not outweigh the results of the participation. Finally, some social workers feel that they have insufficient communication skills to talk with a child. In addition, children come into contact with a large number of social workers and they have little or no time to build up a relationship of trust with the child. Without this trust relationship, it is more difficult to allow the child to participate meaningfully (Vis, Holtan, & Thomas, 2012; Kennan et al., 2018; Bessant & Broadley, 2014; Pölkki et al., 2012; van Bijleveld et al., 2015; O'Reilly & Dolan, 2017).

In the Netherlands, little research has been conducted into the participation of children in youth care procedures, but the existing research shows similar problems as in other countries; insufficient information is given to children, especially in the case of access to youth care services (Samenwerkend Toezicht Jeugd, 2015; De Kinderombudsman, 2015; Monitor Transitie Jeugd, 2016) and children and parents do not feel heard in the process (De Kinderombudsman, 2016, 2018; Monitor Transitie Jeugd, 2016). The coming into force of the Youth Act (2015) involved the decentralisation (or devolution) of youth care services to the local municipalities and has given municipalities the responsibility to organise appropriate youth care. The process of accessing and assigning youth care is therefore also a new task for local municipalities, hence the relevance of studying the possibilities for participation of children in these decision-making processes.

Method

In this article the results of a study into the possibilities for participation of children in youth care procedures and decision-making are presented. This concerns an exploratory study, in which an inventory is first made of the extent to which children in the Netherlands are currently given the opportunity to participate in procedures and decision-making. To this end, interviews were conducted with professionals working in the field of youth care and child protection. This study is funded by the Dutch private organisation Stichting Steunfonds Pro Juventute Nederland, which funds innovative initiatives and research in youth care.

During the period June–October 2017, semi-structured in-depth interviews were held with representatives of organisations involved in the implementation of youth care services and child protection orders in the Netherlands: chairpersons of child protection conferences ($N = 5$), social workers of municipalities ($N = 2$), youth care providers ($N = 3$) and child protection agencies ($N = 3$), civil servants of the Child Protection Agency ($N = 3$), the judiciary ($N = 2$) and lawyers ($N = 2$). In total, 20 individuals were interviewed. Each participant gave written informed consent. The respondents were selected by means of purposeful sampling; i.e. respondents were selected who are specialised in child participation in legal proceedings or who have special affinity with this topic. Respondents are working in three large ($N = 8$), four medium-sized ($N = 11$) and one small ($N = 1$) Dutch municipality, across the country. Purposeful sampling is particularly suitable in the case of explorative, qualitative research, which yields results in a short time-span (Palinkas et al., 2016). In addition, snowball sampling was used, which means respondents were approached that were recommended by other respondents. This study did not aim to reach a representative sample of respondents. The results of this research can therefore not be generalised to all Dutch municipalities, but give an initial impression of children's participation in youth care procedures.

The interviews were guided by a topic list. This list was prepared by the researchers on the basis of existing literature and the international children's rights framework concerning participation. Topics included the role and characteristics of child participation in the procedure, factors influencing child participation, how and to what extent weight is given to the views of the child and how feedback is given to the child on his involvement. The interviews lasted between 2 hours and 5 hours and 45 minutes and were held in office spaces of the participants' organisations. All interviews were conducted by two researchers and recorded by use of an audio-recorder. Detailed notes were kept during the interviews. In terms of data analysis, the notes were coded according to a code scheme developed by the authors. Given the explorative nature of the study, the coding was oriented towards finding emergent patterns in the data. The researchers listened to the audio-recordings to confirm the dominant themes, found through the coding. Throughout the empirical results section of this article illustrative direct quotations from the interviews have been included, which the authors have translated from Dutch into English.

Legal framework of the Dutch youth care and child protection system

In the Netherlands, local municipalities are responsible for access to and provision of youth care since 1 January 2015. Previously, the regional provinces had the legal responsibility for

this. An important principle of the Dutch Youth Act of 2015 is that the provision of care and support to children must be based on families' and children's own capacities, engagement and problem-solving abilities and their network. From a local level, municipalities are better able to offer appropriate and tailor-made assistance to citizens and are expected to stimulate an integrated approach to assist and support families. Because of this proximity, citizens can also become more involved in youth care, which ensures that youth care is more in line with the needs of citizens (Explanatory Memorandum to the Youth Act).

Municipalities have far-reaching obligations regarding the organisation and provision of youth care services. When parents and children need support, they can contact a local team from their municipality. When the local team of the municipality decides that support is necessary and needed because of insufficient or inadequate family and network support, youth care services will be provided by youth care providers.

When voluntary support is not or no longer sufficient for children in need of care, the Dutch Child Protection Agency starts an investigation and may request the children's court to impose a child protection order (arts. 1:255 and 1:266 of the Dutch Civil Code). A child protection order involves family supervision. The family is obliged to accept this assistance by a social worker of a certified youth care organisation. Similar to the voluntary framework, support will be carried out by youth care providers.

Mainly because of the interference in the private and family life of the child and his parents, the compulsory framework is regulated more strictly compared to the voluntary framework. The legal possibilities for children to participate in proceedings regarding child protection in the compulsory framework are laid down in various legal provisions in civil law. Children from the age of 12 must be summoned by the judge in cases that concern them, such as child protection orders. The judge, however, is also free to invite a child to court who is younger than 12 years old, although this hardly happens in daily practice (see De Jong-de Kruijff & van der Zon, 2015). For the voluntary framework, these possibilities are not extendedly regulated. The Youth Act gives municipalities extensive discretionary powers. As will be shown in section "Access to youth care", this has resulted in major differences between the various municipalities with regard to possibilities for children to participate in the youth care system.

As a final remark, it should be explained that a coercive framework is emerging in the grey area between the voluntary and compulsory framework. Within this framework families are forced by professionals to "voluntarily" accept youth care services. Decisions regarding the use of coercion are made by professionals during child protection conferences. As a consequence of the fact that coercion is not regulated, there are no provisions regarding the possibilities of the child to participate. It depends on the municipality and involved professionals if and how children are involved (Bruning, Rap, & Verkroost, 2016).

Professionals' perspectives on child participation in youth care

As a general introduction to the topic of child participation the respondents in the study were asked about their perception of and opinion on child participation in youth care procedures. Professionals working in youth care in the Netherlands generally indicate that participation by children is meaningful and important. Participation is understood by them as that the child can give his opinion, that he gets a voice and a face, that he

becomes aware of the influence that he can exert on the process and decisions that are taken and that he is informed about the youth care services. The interviews show that the age of the child is an important determining factor when it comes to whether the child is given the opportunity to participate. In addition, the level of intelligence, the problems of the child and his character play a role in whether participation is possible and stimulated. With age the opinion of the child is given more weight in the decisions, according to professionals. However, generally strict age limits are applied, which means that in practice children of 12 years and older are involved in the decision-making process.

Professionals indicated that the role of parents in the process sometimes hampers the participation of children. It often happens that parents block or influence the level of participation of the child, especially in situations of complex divorces.

Parents have the possibility to hinder the child's access to the court if they want to. As a consequence, a group of children remains invisible for us. (Youth and family court judge)

Moreover, the child is often dependent on his parents when it comes to receiving information and preparing for a meeting with professionals. Different respondents are also uncertain when it comes to whether the child was actually heard during a meeting. They find it sometimes difficult to make real contact with the child and to actually involve the child in the meeting. It would be helpful to have the conversation in a child-friendly environment, according to professionals.

Access to youth care

Voluntary youth care

The law gives municipalities considerable discretion in organising access to youth care services, and regarding possible child participation, which can lead to substantial differences between municipalities. Moreover, municipalities do not have a legal obligation to involve the child himself in the consultations that take place about access to voluntary youth care services (Bruning et al., 2016).

The results of this study show that regarding access to voluntary support, there seems to be a lack of clarity among professionals about whether, when and how the child should be involved in this phase. The same applies to the information provided to the child. The question of whether the child will be involved will be weighed up, taking into account the problems and the age of the child. If, for example, it concerns the upbringing and problems of parents, the child is not involved automatically. In practice, the minimum age limit of 12 years is largely used when it comes to speaking to the child, informing the child about the procedure and the possibility for the child to lodge a complaint against the youth care provider. Children of 16 and older generally are allowed to participate in decision-making.

At the age of 12 children are allowed to take part in the conversations concerning the appointed youth care. Children of 16 years and older can join the decision-making process. On this point, we just act upon the law. I know this law accidentally, but I am not sure if my colleagues also know this. (Social worker in municipality)

Lack of time and capacity was also mentioned by respondents, which further impedes the participation of children. Furthermore, the impression was given that it depends on the

professional involved whether the child is actually involved in the first decision-making about starting voluntary support and how this involvement subsequently looks.

Coercive framework

In the coercive framework, decisions about initiating youth care are taken during a child protection conference. The results of this study show that not in every municipality children (and parents) are invited to attend this meeting. Moreover, both the preparation for the meeting, the extent to which the child is involved during the meeting and making the decision known to the child seem to depend strongly on the organisation and the professionals involved per municipality.

First, most municipalities apply the minimum age limit of 12 years, from which children are invited to attend.

When the social worker thinks that it is useful to invite a child who is younger than 12 years old, I sometimes decide to indeed invite the child for the whole session or a part thereof.
(Chairperson child protection conference)

It differs per municipality who takes the decision to invite the child; the social worker, the chairperson of the child protection conference or the representative from the Child Protection Agency. Furthermore, municipalities differ whether separate child hearings are held, in which the child only speaks with the chairperson and/or the representative from the Child Protection Agency and the child does not subsequently attend the meeting in which the final decision is taken. In some cases, respondents believe that it is too heavy of a burden for a child to be present at the meeting and in that case the child can be invited for a separate meeting with the chair and/or Child Protection Agency. A chairperson indicated that the child can choose to talk only with the representative of the Child Protection Agency, or with all the participants at the meeting. Respondents indicate that according to their opinion roughly between 10% and 50% of children who are invited attend the meeting.

Second, children of 12 years and older receive a letter with information about the child protection conference and the decisions that can be taken. In some municipalities, the child is prepared by the social worker that is already involved in the case or the chairperson prepares the child before the meeting (by telephone or in person). Third, when the child is present at the conference, the way in which he is involved differs as well. A chairperson of a child protection table indicates that it depends on the age of the child whether and to what extent he is heard during the meeting; the aim of participation is to gain insight into what the child thinks about certain matters and which solutions the child sees for the problems that are discussed. Another chairperson indicated that if the child brings something to the table during the meeting, that subject is given more weight in the discussions.

Finally, the representative from the Child Protection Agency takes the final decision, whether a coercive or compulsory child protection measure is necessary or whether voluntary support suffices. It differs per municipality who communicates the final decision to the child; this can be the chair or the social worker involved in the case. Several respondents indicated that when the child was present at the meeting, the child immediately heard the decision and efforts were made to use clear language and explain to the child what the decision entails.

When the child is not present at the meeting, professionals assume that the opinion of the child is expressed in any case through the parents or the social worker. Respondents indicate that in principle every professional who is present represents the voice of the child and has the best interests of the child at the forefront of their acting and decision-making.

Compulsory youth care

In the process of accessing compulsory youth care opportunities for child participation seem to be better regulated by law and to a larger extent applied in practice (Bruning et al., 2016). Children always meet a civil servant from the Child Protection Agency in the course of the investigations. The Child Protection Agency does not apply age limits in that regard, because they always make a home visit to observe the child and speak with the child. Children between the ages of 12 and 16 always receive a report of what they have told the social worker. Children of 16 years and older receive the entire social enquiry report and can request a meeting with the social worker about the outcomes of the report. From the court children receive a letter with information concerning the procedure, which is written in child-friendly language. Judges, however, indicate that children do not always understand everything in the letter and that they are not prepared for the hearing in any other way.

Children are not always well prepared when they attend a court session or hearing. (Youth and family court judge)

Moreover, it can be concluded from the interviews that children of 12 years and older are always invited for a child hearing with the children's court judge. The manner in which the child is heard depends on the judge. Judges may decide to wear a gown or not. Some courts have special child interview rooms, which are made more child-friendly. It is possible that the child brings a trusted person (or lawyer) to the interview. At the end of this meeting, the judge discusses with the child what he can report to the participants at the court hearing. In practice, older children are given the choice to be present throughout the court hearing and young children are mostly not present. When the child is not present at the court hearing, but is waiting outside, he can be called back in court when the judgment is given, if he wishes so.

In the court decision, the opinion of the child is not explicitly written down, often it is only stated that the child was heard by the judge (see also De Jong-de Kruijff & van der Zon, 2015). The opinion of the child contributes to the decision-making by the children's court judge, but according to a judge it is difficult to explain how the judgment process works and it is not always clear how the views of the child are weighed. According to this judge this also has to do with the fact that not all the information that is shared by the child may be shared explicitly and in a detailed manner in court, so it may not be mentioned in the court decision, however, the judge will take it into account in his final decision.

Implementation of youth care

Legally, strict distinctions are made between voluntary and compulsory youth care. However, the results of this study show that professionals working in practice, providing youth care services, do not make distinctions between children who are subjected to a compulsory measure or who are accepting youth care services voluntarily or coercively.

It doesn't make any difference if the child is placed out of home voluntary or compulsory. However, when the placement is voluntary, we need the parents' permission. In case of a child protection order, we also have to deal with the court appointed social worker. (Youth care provider)

In principle, children from the age of 12 are involved by the youth care provider in the entire treatment process. Children are, in general, involved in drawing up the care plan. The opinion of children and parents is presented in the care plan and the plan is discussed with the child and his parents. In addition, children are involved in the interim evaluation of the plan, they have access to a confidential advisor, they have the opportunity to complain and they can participate in a youth or client council.

When youth care is terminated, evaluating the care that was provided can be an important final moment for the child to share his opinion and experiences. It seems that the child is offered the opportunity to evaluate the care, by means of an exit meeting or a survey. However, it is unclear how the results from written surveys are processed, whether that leads to policy changes within the organisation and if and how changes are fed back to children. The question arises whether the final evaluation aims to have children participate and give them the opportunity to give their opinion or if it is meant to only help improve the organisation's own functioning in the future on the basis of these evaluations.

Discussion

The aim of this study was to explore the possibilities of children to participate in decisions taken during trajectories of voluntary youth care and compulsory child protection. From the literature review on child participation in youth care and child protection it can be concluded that many obstacles exist that prevent effective participation of children. Children do not feel well prepared and informed to participate in a meeting with social workers and they do not feel heard. Social workers face a lack of time, skills and experience to talk with children. However, to have children participate in important decisions concerning their lives has shown to have important benefits. It has a positive influence on their self-confidence, self-esteem, the development of autonomy and the improvement of their knowledge and understanding of the process and the decisions that are taken.

From the results of this study it can be concluded that Dutch youth care professionals generally consider participation of children meaningful and important. However, in line with the findings of previous studies (see section "Recent research findings on child participation in youth care"), several challenges arise in the practical implementation of child participation. First, a lack of clarity exists among professionals in voluntary youth care about whether, when and how the child should be provided with information and be involved in accessing youth care services. Providing the child with age-appropriate information and guidance through the process is of crucial importance to ensure meaningful participation (UN Committee on the Rights of the Child, 2009, paras. 25, 34, 60, 82). Moreover, research shows that a decision is better understood and accepted by children when the reasons that led to a particular decision have been explained to the child (Cashmore & Parkinson, 2007; Tyler, 2003).

Second, the organisation of child protection conferences in the Netherlands is still in full development since its implementation in 2015. As a consequence, both the preparation for the meeting, the extent to which the child is involved during the meeting

and making the decision known to the child seem to depend heavily on the organisation per municipality and the commitment of the professionals involved. It can be concluded that municipalities and *in concreto* social workers should take responsibility in providing child-friendly information to children about the process of accessing youth care services, the involvement of children in decision-making and what is expected from them, their rights (e.g. the right to complain or the right to a confidential advisor) and the final outcomes of the procedure. Professionals should know about the right to participation as laid down in the CRC and they have an important role to play in enabling children to effectively participate (Williams, 2017).

Third, opportunities for child participation are more widely available and better developed in the case of access to compulsory youth care (child protection orders) compared to voluntary youth care services; children are always seen and heard during the investigations and from 12 years onwards they are invited to be heard by the judge. Also, with regard to the implementation of youth care, in principle, children aged 12 years and older are involved in the entire care process. This is a positive result, because in previous studies children themselves indicate that they value being an active participant in important decision-making processes affecting their lives (Saywitz et al., 2010).

This study shows that the legal minimum age limit of 12 years is in practice consistently applied in the Netherlands. Although this legal age limit to be heard in civil court proceedings can be considered an arbitrary age limit, it serves a unifying purpose, which contributes to equality before the law for all children. However, it can be argued that children below the age of 12 who are capable to form their own views should also be involved in the decision-making process, provided that the necessary and appropriate support is available, in order to effectively take into account the voice of the child. Moreover, recent research shows that having a representative, in the form of a lawyer or a guardian ad litem, contributes positively to participation in legal procedures. The representative can help the child influence the decision and can urge the other professionals to give the child feedback on the decision that is taken. Especially for younger children, having a representative can enhance their level of participation in procedures (Kennan et al., 2018).

A limitation of this study concerns the lack of involvement of children themselves. Future research should be directed at the perceptions and opinions of children and parents about their involvement in youth care procedures. It is of importance to gain knowledge and understanding of their experiences, because that may provide points of departure for the improvement of child participation and it may foster mutual understanding between professionals and children.

Conclusion

The aim of this article was to explore the legal and practical possibilities for children to participate in accessing youth care services and in the implementation of youth care and child protection measures in the Netherlands. Both from the literature and the results of this study it can be concluded that many obstacles exist that prevent effective participation of children in youth care and child protection. Dutch municipalities have discretion in giving shape to child participation in access to voluntary and coercive youth care. Specifically, the provision of information to children on the procedures and their own involvement can be improved. In the process of access to compulsory youth

care via court orders participation of children is better regulated and implemented in practice. Throughout almost the entire process the minimum age limit of 12 years is applied, which means that children below that age have scarce opportunities to participate.

Notes

1. In this article the term "child" is used, when meaning persons up to the age of 18 (in accordance with art. 1 CRC).
2. For practical reasons, in this article it is referred to children and adults in the masculine form. Feminine children and adults are to be considered included in the references as well.
3. Recent research also shows that health care professionals play an important role in promoting the well-being of children who are suffering because of their disease and their stay in a hospital (Corsano et al., 2015). Also, when children experience the relationship with health care professionals as close, intimate, cohesive and without conflict it helped them to cope with painful and uncomfortable medical procedures (Corsano et al., 2013).

Disclosure statement

No potential conflict of interest was reported by the authors.

Notes on Contributors

Stephanie Rap is an assistant professor in Children's Rights at the Department of Child Law, Leiden Law School, Leiden University, Netherlands.

Denise Verkroost is a PhD-candidate at the Department of Child Law, Leiden Law School, Leiden University, Netherlands.

Mariëlle Bruning is a professor of Children and the Law at the Department of Child Law, Leiden Law School, Leiden University, Netherlands.

ORCID

Stephanie Rap  <http://orcid.org/0000-0002-4046-9327>

References

- Bessant, J., & Broadley, K. (2014). Saying and doing. Child protective service and participation in decision-making. *The International Journal of Children's Rights*, 22, 710–729.
- Block, S. D., Oran, H., Oran, D., Baumrind, N., & Goodman, G. S. (2010). Abused and neglected children in court: Knowledge and attitudes. *Child Abuse & Neglect*, 34, 659–670.
- Bruning, M. R., Rap, S. E., & Verkroost, D. S. (2016). Participatie van minderjarigen in de vrijwillige jeugdhulp. *Tijdschrift Voor Familie- en Jeugdrecht*, 11, 250–257.
- Cashmore, J. (2002). Promoting the participation of children and young people in care. *Child Abuse and Neglect*, 26, 837–847.
- Cashmore, J., & Parkinson, P. (2007). What responsibilities do courts have to hear children's voices? *The International Journal of Children's Rights*, 15(1), 43–60.
- Collins, T. M. (2017). A child's right to participate: Implications for international child protection. *The International Journal of Human Rights*, 21(1), 14–46.
- Corsano, P., Cigala, A., Majorano, M., Vignola, V., Nuzzo, M. J., Cardinale, E., & Izzi, G. (2015). Speaking about emotional events in hospital: The role of healthcare professionals in children's emotional experiences. *Journal of Child Health Care*, 19(1), 84–92.

- Corsano, P., Majorano, M., Vignola, V., Nuzzo, M. J., Cardinale, E., & Izzi, G. (2013). Hospitalized children's representation of their relationship with nurses and doctors. *Journal of Child Health Care, 17*(3), 294–304.
- Cossar, J., Brandon, M., & Jordan, P. (2011). *Don't make assumptions': Children and young people's views of the child protection system and messages for change*. London: The Office of the Children's Commissioner.
- Council of Europe (2010). *Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice* (adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies). Strasbourg: Council of Europe.
- De Jong-de Kruijff, M. P., & van der Zon, K. A. M. (2015). Hoger beroep tegen een uithuisplaatsingsbeslissing en de rol van de minderjarige. *Trema Tijdschrift Voor de Rechterlijke Macht, 298–307*.
- De Kinderombudsman. (2015). *De zorg waar ze recht op hebben; onderzoek naar de toegang tot en de kwaliteit van de jeugdhulp na decentralisatie (deelrapport 1 van 3)*. Den Haag: De Kinderombudsman.
- De Kinderombudsman. (2016). *De zorg waar ze recht op hebben; onderzoek naar de toegang tot en de kwaliteit van de jeugdhulp na decentralisatie (deelrapport 3 van 3)*. Den Haag: De Kinderombudsman.
- De Kinderombudsman (2018). *Position paper betreffende de evaluatie van de jeugdwet*, 19 April 2018. Retrieved from <http://www.kinderombudsman.nl/ul/cms/fck-uploaded/Positionpaperevaluatiejeugdwet.pdf>
- European Union Agency for Fundamental Rights (2017). *Child-friendly justice. Perspectives and experiences of children involved in judicial proceedings as victims, witnesses or parties in nine EU member states*. Luxembourg: Publications Office of the European Union.
- Fitzgerald, R., Graham, A., Smith, A., & Taylor, N. (2009). Children's participation as a struggle over recognition. In B. Percy-smith & N. Thomas (Eds.), *A handbook of children and young people's participation. Perspectives from theory and practice* (pp. 293–305). Hoboken: Routledge.
- Kennan, D., Brady, B., & Forkan, C. (2018). Supporting children's participation in decision-making: A systematic literature review exploring the effectiveness of participatory processes. *British Journal of Social Work, 0*, 1–18.
- Kilkelly, U., & Donnelly, M. (2011). Participation in healthcare: The views and experiences of children and young people. *The International Journal of Children's Rights, 19*(1), 107–125.
- Lansdown, G. (2005). *The evolving capacities of the child*. Florence: UNICEF Innocenti Research Centre.
- Leviner, P. (2018). Child participation in the Swedish child protection system. *The International Journal of Children's Rights, 26*(1), 136–158.
- Masson, J. M. (2000). Representation of children in England: Protecting children in child protection proceedings. *Family Law Quarterly, 34*(3), 467–495.
- McCarthy, E. (2016). Young people in residential care, their participation and the influencing factors. *Child Care in Practice, 22*, 368–385.
- Monitor Transitie Jeugd. (2016). *Rapportage 2016. Een overzicht van de meldingen van januari t/m december 2016*. Retrieved from http://www.monitortransitiejeugd.nl/images/JAARrapportage_MTJ_vs1.1.pdf
- Muench, K., Diaz, C., & Wright, R. (2017). Children and parent participation in child protection conferences: A study in one English local authority. *Child Care in Practice, 23*(1), 49–63.
- O'Reilly, L., & Dolan, P. (2017). The role of social work education and training in supporting practitioners to communicate with children in an age-appropriate manner. *The British Journal of Social Work, 47*, 2438–2455.
- Palinkas, L. A., Horwitz, S. M., Green, C. A., Wisdom, J. P., Duan, N., & Hoagwood, K. (2015). Purposeful sampling for qualitative data collection and analysis in mixed method implementation research. *Administration and Policy in Mental Health and Mental Health Services Research, 42*(5), 533–544.
- Pölkki, P., Vomanen, R., Pursiainen, M., & Riikonen, M. (2012). Children's participation in child-protection processes as experienced by foster children and social workers. *Child Care in Practice, 18*(2), 107–125.

- Samenwerkend Toezicht Jeugd/Ministerie van Volksgezondheid Welzijn en Sport. (2015). *Toegang tot jeugdhulp vanuit de wijkteams*. Utrecht: Samenwerkend Toezicht Jeugd.
- Saywitz, K., Camparo, L. B., & Romanoff, A. (2010). Interviewing children in custody cases: Implications of research and policy for practice. *Behavioral Sciences and the Law*, 28(4), 542–562.
- Schofield, G. (2005). The voice of the child in family placement decision-making: A developmental model. *Adoption and Fostering*, 29(1), 29–44.
- Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. In M. Tonry (Ed.), *Crime and justice* (Vol. 30, pp. 283–358). Chicago: University of Chicago Press.
- UN Committee on the Rights of the Child. (2003). *General measures of implementation of the Convention on the Rights of the Child*. General comment No. 5, CRC/C/GC/2003/5.
- UN Committee on the Rights of the Child. (2009). *The right of the child to be heard*. General Comment No. 12, CRC/C/GC/12.
- van Bijleveld, G. G., Dedding, C. W. M., & Bunders-Aelen, J. F. G. (2015). Children's and young people's participation within child welfare and child protection services: A state-of-the-art review. *Child & Family Social Work*, 20, 129–138.
- Vis, S. A., Holtan, A., & Thomas, N. (2012). Obstacles for child participation in care and protection cases—why Norwegian social workers find it difficult. *Child Abuse Review*, 21, 7–23.
- Vis, S. A., Strandbu, A., Holtan, A., & Thomas, N. (2011). Participation and health—research review of child participation in planning and decision-making. *Child & Family Social Work*, 16, 325–335.
- Williams, J. (2017). The role of the professions in effective implementation of the CRC. In T. Liefwaard, & J. Sloth-Nielsen (Eds.), *The united nations convention on the rights of the child. Taking stock after 25 years and looking ahead* (pp. 142–165). Leiden: Brill/Nijhoff.