Did Ferdinand Grapperhaus slip up?

His past as a lawyer threatens to haunt the Minister of Justice and Security. A complaint is pending against Ferdinand Grapperhaus from his days as a defence counsel. According to case documents which are in this newspaper's possession, he allegedly misled a judge and violated rules of conduct.

Tobias den Hartog  04-11-17, 08:13 Last update: 08:20

After 225 days of coalition negotiations, there was great relief in The Hague on Thursday 26 October. The third Rutte government was presented to the King, with Ferdinand Grapperhaus as the new minister of Justice and Security.

The Christian Democrats were lucky to have Grapperhaus within their ranks. He had been a Crown-appointed member of the Social and Economic Council for ten years. He was a professor of European Labour Law at the University of Maastricht, and a regulatory supervisor at the Dutch Land Registry Office. But above all: he headed one of the most distinguished law firms in the Amsterdam Zuid Business District: Allen & Overy. A lawyer through and through.
It will be his task to restore the peace at the Ministry of Justice. For years, the Liberals dictated repression. But after this ‘tough stance’, the emphasis now has to be on the rule of law.

However, it is against Grapperhaus of all people that a complaint is pending before the Amsterdam Board of Discipline, the body handling complaints against lawyers. The complaint concerns his alleged “misconduct” as a lawyer. As the Minister of Justice, such an attack on his integrity is surely the last thing he needs.

**Complaint**
The complaint stems from a conflict that shook the normally respectable Amsterdam Zuid Business District. In 2016, it emerged that the previous year an internal war had erupted at the top of KPMG Meijburg, the prominent tax law firm that assists millionaires and multinationals.

At the time, Karim Aachboun had been a rising star at that prestigious firm. Hailing from a Utrecht working-class neighbourhood, he had become one of the leading Dutch tax specialists. Together with his mentor Ad Aerts, he looked after the interests of multi-billionaire Bernard Arnault, founder of Louis Vuitton. Through Johan Cruijff they also advised a number of Barcelona players, and they recruited clients from the Quote 500 rich list. They also helped an Israeli chemical giant move its headquarters to the Netherlands, with Prime Minister Mark Rutte speaking warm words at the opening ceremony.

However, the success of Team Aachboun and Aerts went down badly with the top of the company. Things came to a head when director Wiebe Cnossen charged at them with clenched fists. “Piss off, Karim!” he shouted. And to Aerts: “I am the boss here”.

After that, Aerts tried for months to obtain an acknowledgement from co-owner Wilbert Kannekens, Chairman of the Board at KPMG Meijburg, that Cnossen had gone too far, but Kannekens refused. Aachboun and his mentor Aerts were side-tracked and eventually forced out. The conflict escalated in the following months: their departure ended in a court battle.

**Judge**
In the case against Aachboun, KPMG Meijburg hired none other than Ferdinand Grapperhaus, at that time a top lawyer in labour disputes. Nevertheless, Aachboun was confident about the case. His intention was to call Aerts as a witness. After all, he had witnessed the aggression and obstruction. That plan was sabotaged, however, with Grapperhaus being one of the saboteurs.

In the months before his official departure, Aerts felt pressurised by the Board of KPMG. Allegedly, he was instructed to deny the incident with the aggressive Cnossen.

Aerts was furious about this, and one partner in particular incurred his anger: Valentijn van Noorle Jansen. After all, the latter was also a judge, namely a deputy justice at the Court of Appeal in The Hague. Aerts believed that if there was one person that should keep well away from intimidation, it had to be a judge.

He decided to file a complaint with the Court of Appeal on account of violations of the honour and dignity of the office of judge. This complaint consisted of six pages and eleven appendices.

**Building block**
For Aachboun, the testimony of Aerts could be a building block in his case against KPMG, but things took an entirely different turn.

After just six days, the President of the Court, Leendert Verheij, announced that he had found "no indication of any kind" that Van Noorle Jansen crossed the line.

What is remarkable, however, is that correspondence soon revealed that Verheij had never read Aerts’ crucial appendices. Apparently, they had gone astray at the Court.

Remarkable or not: judgment had been given. Aerts received a copy, as did Van Noorle Jansen. After all, this was a matter between the two of them. Nevertheless, Van Noorle Jansen passed on his copy to KPMG director Kannekens, who handed it over to Grapperhaus. After all, for Grapperhaus this was ammunition in the case against Aachboun. And sure enough: Grapperhaus used this document in the dismissal proceedings against Aachboun.

This put Aachboun on the spot: there was no point any more in calling Aerts as a witness. If the president of a court declared that Aerts was not pressurised, Grapperhaus would use this against him in the dismissal proceedings.

Culpable

Even without the witness, Aachboun still won his case against KPMG. The Court ruled that the prestigious law firm had acted in a “seriously culpable manner” in relation to the incident with Cnossen. He should have been confronted about his behaviour. Because Aachboun received only a part of the damages he had claimed, he lodged an appeal. KPMG had had enough, though: the parties settled for an amount which they have kept a secret ever since.

However, one thing still bothered Aachboun: the actions of Grapperhaus. According to Aachboun, the lawyer had revealed in correspondence that he was aware that Verheij, the President of the Court, did not have all the documents in his possession when he ruled that Aerts had not been pressurised. Thus, he had presented “factual inaccuracies” to the court in the dismissal case against Aachboun.

Grapperhaus had misled the court, claimed Aachboun in September in the complaint currently pending before the Board of Discipline. According to the complaint, which is in this newspaper’s possession, Grapperhaus violated a total of four rules of conduct regarding the integrity expected of lawyers. Grapperhaus provided information which he knew “to be incorrect”. “This is not only objectionable”, but also "not befitting a lawyer”, states the complaint. “Grapperhaus behaved in such a way as to undermine confidence in the legal profession.”

The Board of Discipline refused to comment on the complaint submitted and only confirmed that it was pending.

500 euro

Likewise, Aachboun refused to clarify the matter. After the conflict, he and Aerts have started their own practice: they are now co-owners of TaXeCo Tax Lawyers. An interview with NRC in January revealed that Aachboun has brought along a number of their KPMG clients, including Bernard
Arnault. At an “hourly rate of 500 euro” he is back in business in the Amsterdam Zuid Business District.

In a written response, Aachboun stated only that he was confident about his proceedings against Grapperhaus. “I will see Mr Grapperhaus before the Board of Discipline in February 2018, if he as a lawyer has not lost his nerve, since I will be representing myself without a lawyer. Until then…”

The Ministry has emphasised that this is primarily a private issue of Grapperhaus. The department remained vague when asked if this might have implications for his job as a Minister.

### Complaint reported to Rutte

Grapperhaus has confirmed that he informed Prime Minister Rutte before his appointment that a complaint was pending against him from his days as a lawyer. He refused to comment on the complaint. However, he did state that the complaint proceedings had “no effect” on his work. The Minister also denied that there was a conflict of interest. Fellow minister Sander Dekker is responsible for the disciplinary body handling the complaint. In these proceedings, Grapperhaus is defended by an ex-partner from his former office.