

Integrity among public servants in the Netherlands

Introduction

The importance of integrity in public administration was placed high on the political agenda by the late Minister of the Interior Catherine I. Dales. In a speech for the Union of Dutch Local Authorities in June 1992 she said:

The government either has integrity or it does not. You can't just have a little integrity. An administration stands or falls with the integrity of the government: any diminution of the integrity of the government means that the government loses the confidence of the public. And without the confidence of the public, democracy cannot work. Then there is no more democracy. That is a frightening picture.

Shortly after this speech, the government published a policy document on organised crime in the Netherlands and how it could be tackled. On the basis of this policy document, parliament was promised more detailed proposals aimed at protecting public administration more effectively against assaults on its integrity and defining the role of administration in actively combating organised crime. This set the tone for a government-wide debate on the integrity of public administration, on the basis of which a number of policy initiatives have since been taken.

Policy measures can be divided in three categories:

- measures aimed at **public servants**. This includes civil servants and officials at every level of public administration, whether elected or appointed;
- measures aimed at **processes and procedures** in public administration. The focus here is on the vulnerability of policy processes and procedures for granting subsidies and licenses and for contracting out work;
- measures aimed at **the partners** of the public sector. The important point is to establish that any commercial partner with whom the public sector wishes to enter into business arrangement is entirely above board.

Legal scope

The most important elements of the legal system of relevance in dealing with breaches of integrity are the following:

- The **general Civil Service Regulations** (ARAR, article 80) state the disciplinary sanction may be imposed in the event of negligence (i.e. either a breach of any regulation or any action or omission that is incompatible with proper conduct on the part of a public servant in the circumstances concerned). Article 61 states the obligation of the public servant to mention relevant additional activities to his Minister. Article 62 contains an interdiction to take part at the side of a private party, direct or indirect, in works or supplies in behalf of the public service. Article 64 contains the prohibition to accept gifts or other benefits from third parties.
- In the event of conduct so reprehensible as to constitute an offence, the public servant's superior is obliged, on the basis of article 162 of the **Code of Criminal Procedure**, to lay an information with the public prosecutor.
- The Netherlands does not have a statutory scheme to protect **Whistleblowers**, although confidential officers have been appointed in many government organisations. Whistleblowers can speak free to a confidential officer. There are also in some police-corpses confidential officers appointed, but not in all. In the last mentioned corpses it is seen as a task of the management.
- Articles 362 and 363 of the **Criminal Code** state that it is an offence for a public servant to accept a gift or a promise in the knowledge that it has been given with a view to inducing him to do or omit something in connection with his work. These articles are currently under review in order to comply with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- The **Central and Local Government Personnel Act** provides that a public servant may not accept any work that could have an adverse effect on the performance of his duties or that is incompatible with the dignity of his office. Rules governing the additional activities of civil servants are to be tightening up.
- A **Public Administration (Probity in Decision-making) Act** (Dutch acronym: BIBOB) is currently being prepared to prevent the award of public contracts to tenderers who intend to utilise the proceeds of crime by implementing a public contract, or to implement a public contract *inter alia* for the purpose of committing offences. By this Act a special agency will be established which will be authorised to consult closed sources, such as judicial, police and tax department files and the files of social insurance bodies, as well as open sources, such as commercial registers and land registries. On the basis of this investigation the agency will submit a report to the contracting authority, assessing the risk to the authority of the tenderer investing illicit assets or committing offences.

Special bodies responsible for ethics

The Netherlands does possess some special government bodies that concern themselves with the upholding and promoting integrity in public administration:

- the **National Criminal Investigation Department**, which investigates criminal offences of civil servants;
- the **Internal Security Service**, which has the task to safeguard integrity, based on their mission to protect the State.

Also the **Dutch Court of Audit** and the **National Ombudsman** concern themselves with upholding and promoting integrity.

Effective accountability and control mechanisms

Administrative organisations and accountability and control processes are being screened to establish whether their integrity is at risk of being undermined. For instance the **Internal Security Service (BVD)** investigates the integrity of administrative organisations.

Codes of conduct

Many organisations have established codes of conduct. So there are for example the "Conscious government guidelines". The police have **The Integrity Statute of the Dutch Police**. Several ministries have guidelines about integrity and additional activities. For police officers it is not any more allowed to work in their free time as a private security official. The Ministry of the Interior and Kingdom Relations has guidelines about professional procurement. Conflicts of interests can be prevented by forming a procurement team, which can take a decision about purchasing a product or a service as a collective.

Training

Introductory courses, internal refresher courses and external public administration courses devote attention to the culture of the organisation, its vulnerability, and the requirements to which integrity of public servants are subject. Training modules about integrity are implemented in police training courses. There are also courses run for mayors and managers in government departments, using visual material about situations that impinge on integrity.