

Personal (professional) integrity within the public service in the Netherlands (final version)

by

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Introduction

GRECO, a working party of the Council of Europe, states that the Netherlands should make more effort with a policy to prevent and drive back improper conduct within the public service. Why? Because GRECO fears for a considerable number of cases of fraud or corruption in the Netherlands.

This opinion of GRECO's leads us into confusion. *Is there a dark number? If so, is it a considerable dark number?* This dark number belongs to the things of which the American Minister of Defense Rumsfeld says: "There are things that we don't know that we don't know". Should one base a policy on such "unknown unknowns"?

Of course we know that incidents occur. Like the public servants who wine and dine at the expense of building contractors; a parliamentary enquiry committee found that out. But does that mean that there is a considerable dark number of incidents like these?

I tell you this because there is also the view of Transparency International about the Netherlands. Transparency International is a worldwide organisation that monitors corruption in all the countries of the world.

One of the cofounders of this organisation is one of the keynote speakers in this conference, and there are also present here some members of this association.

According to Transparency International the Netherlands belong to the Top 10 of non-corrupt countries. Is this a reason to lay back and say: “Why should we follow the recommendations of GRECO?”

No. Because whatever GRECO or Transparency International say, every incident of improper conduct within the public service is one too many. Why? Because every incident of improper conduct is damaging for the reputation of public administration and for the confidence that every citizen should have in the administration.

Furthermore: every incident of improper conduct is damaging for the reputation of public administration as a whole. An incident of improper conduct within a commercial bank is damaging for the reputation of that particular bank, not for all commercial banks. An incident of improper conduct within public service is damaging for public service as a whole.

This effect we can call “*radiation*”. Radiation of the impropriety of the conduct in question, which radiation has a fall-out on the organisation.

There is also the effect of *contamination*. An organisation that is not able to deal properly with improper conduct is likely to be contaminated.

Improper conduct as an infectuous disease, that spreads itself around, if the source of infection is not dealt with: “If our manager or our colleague is doing this or that, why should we refrain us from doing the same?”

Measures

What do we have to do about that? One could think of several measures and instruments to make an organisation non-corrupt.

I give you a few examples of the possibilities that we use in the Netherlands.

First of all: one should investigate within his own organisation, whether there are vulnerabilities. For instance: the officials in charge of purchasing goods for the organisation form a vulnerability within the organisation. One can demand two signatures for each purchase in this field. Or one can require that decisions to purchase a whole lot of goods, necessary for the organisation are taken by a commission composed of members of the staff of the organisation. In the Netherlands we call that “purchasing decisions seen by more than one eye” or something like that. This system is useful when there is much money involved in the transaction in question, e.g. the acquisition of computers.

A purchasing agent of an organisation – a further example – should not be held in his particular place in the organisation for good. For there is a risk that he develops improper relations with one or more suppliers. I think I do not have to elaborate on that. A purchasing agent should have another function after a certain period. Job rotation is a must for officials in this field. And although we say in the Netherlands that “civil servants are not bags of flour” that can be pushed around, job rotation should be obligatory in the area of purchasing agents. One should make it however worth while for a purchasing agent to leave his original function and get

another, by promising him more money or anything like that. In other words: job rotation should be embedded in a systematic career planning.

Speaking of more money, I have to say that the most useful instrument to render an organisation non-corrupt is to give the personnel a good salary. In third world countries officials are tempted to ask for slush money if their monthly income is too low. The fight against corruption begins there, with paying them an adequate salary. I once told this to Indonesian civil servants, and lo and behold! they did quite agree! In fact, this was the only thing in my lecture that they agreed with!

Apart from that an organisation can permit some officials to claim expenses outside the ordinary. I know of civil servants who deal with building contractors on a regular basis, and who do not want to be tempted by the contractors to “wine and dine”. For there are several instances in a process of developing and building something, in which one could celebrate the event with some festivities. In these cases the organisation in question gave these civil servants permission to take their relations to dinner in their turn, at the expense of the organisation. Wining and dining in reciprocity!

Furthermore there is the possibility of supervision of the purchasing agent or other officials on vulnerable positions within the organisation. This supervision can be executed daily or at random.

Another instrument to promote personal integrity is the oath of office. We in the Netherlands think the oath of office is very important. In this oath the public official solemnly swears that he neither directly nor indirectly has given or promised, or shall give or promise something to someone to

get his job. Then he swears that he neither directly nor indirectly shall accept promises or gifts from whoever to do or not to do whatever in his office. Furthermore he swears that he will faithfully execute his office and that he will act and behave like a good public servant. I have the impression that in Slovakia there are more elaborate provisions than the Dutch one about behaving like a good public servant.

It was the late Mrs. Ien Dales, Minister of the Interior, after whom the Chair I hold at the University of Amsterdam is named, who did put emphasis on the value of the oath of office. This oath did fall into disuse for a period of time – which, I think, was partly due to its archaic wordings -, but in a speech in 1992 Minister Ien Dales did breathe new life into the oath and stressed the importance of it for the battle against corruption.

The latest news in this respect is that nowadays high officials make a solemn declaration – apart from the oath of office – that their conduct will be proper and ethical. The official oath is obligatory; this solemn declaration is voluntary, but one has to explain abundantly why one does not want to make this statement. “Explain or comply!”

If a civil servant has a job on-the-side, he should report it to his superiors. Jobs on-the-side that are risky for the faithful execution of his office, are forbidden to have. A civil servant also has to report about his financial interests insofar they are risky for the faithful execution of his office. I noticed that in Slovakia spouses of civil servants also have to refrain from risky financial transactions.

In the Netherlands we also have as an instrument the trustworthy person or confidence commissioner: a person to whom one can report confidentially incidents of improper conduct within the organisation.

These are some of the instruments we use in the Netherlands in the context of a policy to reach personal integrity within the public service.

Codes of conduct

I want to focus in my speech on the codes of conduct or codes of ethics, that you can find in several places within public administration. Codes of conduct and codes of ethics are especially designed to be applicable in the grey area between what is forbidden by a penal or disciplinary code on the one hand (e.g. fraud or corruption), and that what is socially acceptable on the other hand. In this grey area one cannot expect simple yes-or-no answers to questions of integrity that arise. As the Chinese philosopher once said: “In a grey area matters cannot be downright black-or-white”.

The question of improper conduct that arise in this grey area require an approach with integrality: all facts and circumstances of the case should be taken into consideration before one is able to render an opinion whether the conduct in question is proper or improper.

Take for instance the case of the female police commissioner whose husband has a private consultancy agency that gets projects and assignments of the police corps in question. Is that permitted? And what if this female police commissioner has a share in her husbands agency?

Take – another example – the case of the police officer who has a romantic relation with a girl of a rather sophisticated brothel. Is that permitted? We in the Netherlands are very liberal when it comes to politicians who go to hookers. There was also one famous Dutch gay politician who explicitly stated that he was a regular visitor of dark-rooms. We think that such conduct is within the sphere of privacy of the person involved, and only under certain conditions such behaviour has repercussions on his political function. What about this policeman than? Should we treat his romantic relation with this hooker the same way as we Dutch look upon the behaviour of the said politicians?

A third example. In the home of a police commissioner there have to be installed some high tech security provisions. More precisely: there has to be installed a strongroom. At the expense of the police department, because the protection of this police commissioner is very necessary. The installation is done by a contractor who regularly does building projects for the police department, and whose workers are screened by the National Security Service.

This police commissioner asks the building contractor how much it would cost if the contractor renovates the kitchen of the commissioner simultaneously.

At the expense of the commissioner personally of course. To make a long story short, the contractor gives a quotation with a reasonable price; the police commissioner gives him the job to do; the kitchen is renovated; afterwards the contractor is paid in full for the kitchen out of the personal bank account of the police commissioner; everything in this operation seems impeccable; there is no money going back from the contractor to the commissioner under the table. When asked, the police commissioner

says that he gave the contractor the job because the employees of the contractor were screened by the National Security Service. In his home there were so many delicate security provisions built in, that only screened workers should have access and that only screened personnel should install the pipes and cables necessary for the new kitchen, eventually in connection with the security systems of the strongroom.

Is the conduct of this police commissioner permitted?

A fourth example. A high ranking police official is attends a fund raising dinnerparty for a respectable charity goal. Chairs or tables at the dinner party can be sponsored. The police official is invited to the fund raising dinner by one of the main suppliers of his organisation. Is it proper or improper conduct to accept the invitation?

These cases, that are taken from reality – with slight alterations, to protect the privacy of the persons involved and to fit the cases in into my lecture – are not open-and-shut-cases. You are perhaps wondering what my opinion is about each of them? That is not important at this moment. It is my intention to give you my opinion in writing on a certain moment during this conference. (See the Appendix to this text.) It is more important that these cases form an item for discussion during the working sessions.

What I want to emphasize is, that one has to investigate all aspects of each case before reaching an opinion. As I said before: “cases of integrity require an approach with integrality”. This is not only due to the complexity of each case; it is also in the interest of the person involved.

One should not be blamed unless a thorough investigation of all the facts and circumstances of the case has taken place.

And the second point I want to make is: in cases like these, codes of conduct are of limited value. Of course one could say that a public official should behave like a good public official. But a formula like that does not bring clarity about what “good” behaviour is.

Moreover I think that codes of conduct are of limited value for one more reason: there is an inherent risk to codes of conduct. They lead us into the temptation of not thinking anymore.

For instance: one could easily assume that what is not explicitly forbidden by the code of conduct, is permitted. That, however, is not always the case. In fact, one should always be alert that conduct that is not explicitly forbidden by the code, nevertheless is to be regarded as improper. An example: a high ranking police official with a certain authority on the national airport is on business trip with his wife to some foreign country. He is paying the travel expenses for his spouse out of his own pocket.

He has a business class ticket for the plane; she an economy class ticket. He goes to the counter of the airline and asks, whether there is a possibility to upgrade his wife’s economy class ticket to business class. Since he has some authority on the airport his face is familiar to the ground stewardess, and she upgrades the ticket of the wife of the high ranking policeman. For free. Forbidden conduct? No. Proper conduct? I doubt it.

Final remarks

The point I want to make in this context is: do not decide *on your own* to take a step like this. Talk about it with your colleagues and/or your superiors. Together you will find a solution to the problem, albeit a majority decision. Together you will decide what is proper or what is improper. The solution that comes out of this discussion has a bearing surface. Be open and transparent about the solution that is reached. Daylight is the best disinfectant.

Codes of conduct only give us some guidance in matters like these. But it is of the utmost importance that one thinks for himself. Personal integrity should be “between the ears”. Personal integrity only partly results from rules and regulations. Every public official should be aware of personal integrity. And the ways to promote this awareness are: discussing questions of personal integrity with others, and education. Education in the sense not of teaching each other, but of learning from each other. Just like in this conference.

I thank you for your attention.