

National Integrity Systems

Country Study Report

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Report Author

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The Netherlands

Corruption and Anti-Corruption Policies in The Netherlands: An Evaluation

Introduction and Summary

The Netherlands has a reputation of being a corruption free country. The Transparency International Corruption Perception Index shows a stable picture of The Netherlands being among the least corrupt nations, also in comparison to many other western democratic countries.

This does not mean that this reputation has been the result of deliberate government policies. On the contrary, the presence of the subject on the political and the administrative agenda has been all but self-evident. For some decades hardly any attention has been paid to public corruption and fraud. This changed in 1992 when the Dutch Minister of the Interior used her authority to put the topic on the agenda. Since then, policies have been developed, and a National Integrity System has been constructed. This development has been incremental in character. Step by step a number of anti-corruption rules and institutions were added to the framework of a constitutional democratic state which exists since the beginning of the 20th century.

This report on The Netherlands will evaluate Dutch policies to curb corruption and to protect public integrity. It is part of an international comparative study, the Global Forum II Country Studies of Transparency International, directed by Professor Alan Doig of Liverpool John Moores University. The description and evaluation are based on research done in 2000.

The report sketches the meaning of integrity and corruption, the corruption reputation of The Netherlands and the actual extent of the problem. It is clarified when and how corruption became a topic on the political and administrative agenda and which policies have been formulated and implemented since then (in chronological order and for the different elements of an integrity system). This information is used to compare the Dutch institutional framework with Transparency International's National Integrity System.

It is concluded that most of the elements of the TI System are present in The Netherlands. There is a parliamentary democracy, government is held responsible for its administration and a modern civil service system makes the occurrence of corruption a rare phenomenon. Administrative law provides many guarantees to ensure decision-making in the public interest. There is also an ombudsman as well as other procedures to report alleged misconduct. The judiciary is independent and the penal code clear and deterrent. There is an open, competitive and transparent system of public procurement and last but not least an alert and free press is keen on exposing public corruption.

A number of elements of TI's National Integrity System appear to be lacking, the blind spots in Dutch integrity policies. First, there appears to be a broad reluctance concerning managing conflict-of-interest situations and monitoring assets, income, liabilities and business interests of politicians and civil servants as well as political parties. There is no *system of financial disclosure* which makes it transparent whether improper interests play a role in decision-making processes. Second, there are clear differences between the integrity framework for the public service in general and the political and administrative *elites* (ministers, parliamentarians, top civil servants). Third, the framework shows a *weakness on institutions*. The integrity system lacks an (independent) institution with a more general responsibility for corruption information, prevention (including advice) and investigation. Fourth, public involvement to secure integrity in the *private sector* is very limited, business corruption gets no political or judicial attention.

A combination of the arguments on public disclosure, lack of rules for the elites, weakness of institutions and neglect of the business sector supports a plea to initiate an independent body or commission to protect public integrity and to stimulate integrity policies in the public and the private sector by gathering information, giving information and advice, developing prevention programs, assisting in investigations and stimulating public awareness.

Corruption and Integrity

In the international research project this study is a part of, corruption has been defined as involving "behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they

improperly and unlawfully enrich themselves, or those associated with them, by the misuse of the public power entrusted to them".

This definition is in line with the common understanding of the phenomenon in The Netherlands. Corruption is seen as a specific type of integrity violation, a violation against the accepted moral norms and values for political and administrative behaviour. *Public integrity* denotes the quality of acting in accordance (in 'togetherness') with the values, norms and rules accepted by the body politic and the public. *Ethics* refer to the collection values and norms, functioning as standards or 'yardsticks' for assessing the integrity of one's conduct. Ethics are a set of principles that provide a framework for acting. The moral nature of these principles refers to what is judged as right, just, or good (conduct). *Values* are principles or standards of behaviour that should have a certain weight in choice of action (what is good to do or bad to omit doing). *Norms* state what is morally correct behaviour in a certain situation. Values and norms guide the choice of action and provide a moral basis for justifying or evaluating what we do.

Integrity is acting within the framework of moral values and norms (ethics).

A number of integrity violations or forms of public misconduct can be distinguished (Van den Heuvel, Huberts en Verberk, 1999; Gibbons, 1989, 763-767):

- *corruption: bribing*
misuse of public power because of private gain; asking, offering, accepting bribes;
- *corruption: nepotism, cronyism, patronage*
misuse of public authority to favour friends, family, party
- *fraud and theft*
improper private gain acquired from the organization (no involvement of external actors)
- *conflict of private and public interest*
personal interest (through assets, jobs, gifts etc.) interferes (/might interfere) with public interest
- *manipulation of information*
lying, cheating, manipulating information, breaching confidentiality of information
- *discrimination and sexual harassment*
misbehaviour towards colleagues or citizens and customers
- *improper methods for noble causes*
to use illegal/improper methods to achieve organizational goals
- *waste and abuse of resources*
private time misconduct
- conduct in one's private time which harms the public's trust in administration/government

This clarifies that integrity or appropriate behaviour means much more than not being corrupt. Nevertheless it goes without saying that "behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those associated with them, by the misuse of the public power entrusted to them" is a crucial aspect of organizational integrity.

Integrity and ethics are important topics for all organizations, in the public as well as in the market sector. How should civil servants and politicians behave, what values should be disseminated, what contacts and relationships are permissible, what is good government and good governance? In international forums like the World Bank, the International Monetary Fund, the United Nations and the Organization for Economic Cooperation and Development, the importance of public integrity for private prosperity is stressed and 'good governance' has become a central concept in international developmental relations.

The international as well as the national development of 'integrity systems' show that these systems are meant to protect integrity and to reduce integrity violations. It is impossible to separate anti-corruption policies from integrity policies. This is also acknowledged in the research design this project is a part of: "A National Integrity System is believed to be the best way to avert the damage that corruption causes to the public interest and as a way of fostering an environment in which the quality of official decision-making is heightened".

As a consequence, this evaluation study concerns the broad field of integrity and integrity policies. Nevertheless, two important limitations have to be mentioned. The study concentrates on the integrity 'system' of 'framework'. This indicates that the approach focuses on structure more than on culture. The central question to be answered is

Which laws, rules, procedures and organisations exist to foster integrity (and curb corruption)?

A second limitation concerns the costs of the integrity framework. In line with the argument in the international comparative study, it is presupposed that protecting integrity is so crucial that it would be almost improper to pay much attention to the costs (financial costs, unintended effects for efficiency of government). In line with Anechiarico and Jacobs (1996), this could be considered problematic, even though Berndsen (1999) concluded that the unintended negative effects of the Dutch system should not be exaggerated.

Corruption Reputation of the Netherlands

In 2000, The Netherlands belonged to the ten cleanest countries of the planet, according to the corruption perception index (Table 1) which is based on the perceptions of the degree of corruption as seen by business people, risk analysts and the general public. Some countries have the reputation of being very corrupt and as might be expected most of these are developing countries like Nigeria and India.

Table 1: *Corruption Perceptions Index Transparency International 2000*

(10 highly clean - 1 highly corrupt)

Cleanest Countries (Top 13)		Other Countries	
Finland	10.0	USA	7.8
Denmark	9.8	South Africa	5.0
New Zealand	9.4	Brazil	3.9
Sweden	9.4	China	3.1
Canada	9.2	India	2.8
Iceland	9.1	Indonesia	1.7
Norway	9.1	Nigeria	1.2
Singapore	9.1		
Netherlands	8.9		
United Kingdom	8.7		
Luxembourg	8.6		
Switzerland	8.6		
Australia	8.3		

Source: Transparency International 2000b.

Although skepticism about the relationship between corruption reputation and corruption is justified, research shows that the positive image of The Netherlands is rather stable and convincing (Table 2). In comparison with other countries of the European Union, The Netherlands is seen as relatively clean. Scandinavian countries enjoy an even better reputation, but The Netherlands scores as fourth among fifteen European Union member states in 1996, 1998 and 2000 (also: Peterson, 1997: 158-160).

Table 2: *Corruption Perceptions Index Transparency International 1996-2000*
(10 highly clean - 1 highly corrupt)

	2000	1998	1996	1988-1992	1980-1985
Finland	10.0	9.6	9.1	8.9	8.1
Denmark	9.8	10.0	9.3	8.9	8.0
Sweden	9.4	9.5	9.1	8.7	8.1
Netherlands	8.9	9.0	8.7	9.0	8.4
United Kingdom	8.7	8.7	8.4	8.3	8.0
Luxembourg	8.6	8.7	-	-	-
Austria	7.7	7.5	7.6	7.1	7.4
Germany	7.6	7.9	8.3	8.1	8.1
Ireland	7.2	8.2	8.5	7.7	8.3
Spain	7.0	6.1	4.3	5.1	6.8
France	6.7	6.7	7.0	7.5	8.4
Portugal	6.4	6.5	6.5	5.5	4.5
Belgium	6.1	5.4	6.8	7.4	8.3
Greece	4.9	4.9	5.0	5.1	4.2
Italy	4.6	4.6	3.4	4.3	4.9

Source: Transparency International and Göttingen University, <http://www.gwdg.de/~uvw> (june 2000) and Transparency International 2000b.

Another TI score is slightly less favourable for The Netherlands. The Transparency International Bribe Payers Survey (2000a) concerns the willingness of companies from different countries to pay bribes to public officials to win or retain business. It shows that The Netherlands has position number 6 among 19 leading exporters with a 7.4 score (on a 10 point scale with 10 as a level of negligible bribery). Businesses from Sweden (8.3), Australia, Canada, Austria and Switzerland have a perceived lesser level of leniency on bribery than Dutch companies.

Corruption And Integrity: The Extent Of The Problem

Empirical research by social scientists on the extent of public corruption and fraud in the Netherlands is still scarce. Some research projects have been carried out on criminal cases involving corruption (Hoetjes 1982, 1986, 1991; Bovens, 1996), on police corruption (Punch, 1985; Kolthoff, 1994; Van der Steeg, Lamboo and Nieuwendijk, 2000) and on local and national levels of public corruption and fraud (Huberts, 1992; Niemeijer et al, 1995; Hoetjes, 2000).

Summarizing the available evidence, a survey among local town clerks can be used as a starting point (Huberts, 1992). In Dutch cities the town clerk is the manager of local administration. He assists all important political bodies and he is primarily responsible for the administrative personnel and the administrative organization. Whenever a case of fraud or corruption is officially investigated, the town clerk is the functionary who is most likely know about it.

The survey was the basis of an estimation of the total number of cases of local corruption and fraud in the Netherlands. In the research project, corruption was defined as follows: a civil servant is considered corrupt, when he harms the public interest, because of the rewards or promises offered by outside actors. When no interests of outside actors are involved, the integrity violation is called fraud.

The outcome of the review was that 102 new cases of alleged and substantiated *local* corruption and fraud are discovered every year. When these results are extrapolated to the entire public service in the Netherlands, based on the number of civil servants employed, the total number of new cases annually is 370: every day an investigation is started upon a possible new case of public fraud or corruption (Huberts, 1992, 1995).

When these overall figures are related to Hoetjes' research results on criminal cases (1991), it is clear there is a gap between the number of cases reported to the Public Prosecution and the number of cases actually being prosecuted (Table 3).

Table 3: *Public corruption and fraud in The Netherlands*

Public corruption and fraud in the Netherlands (Huberts, 1992 / extrapolated results)	Number of cases (annually)
Alleged and actual public corruption and fraud	370
Actual corruption and fraud	247
Police is notified	
Public fraud	71
Public corruption	59
Total	130

Public corruption (Research Hoetjes, 1991)	Number of cases (annually)
Criminal cases: corruption	19
Convictions for corruption	6

A few years later, research was carried out by criminologists which confirmed the previous findings. In addition they concluded that corruption and fraud were only a minor part of the cases of serious violations of public integrity (Niemeijer, Huisman, Beijers 1996: 20). (Table 4)

Table 4: *Integrity violations in The Netherlands: Local Government*

Corruption	5%
Fraud	8%
Theft	12%
Leaking information	31%
Conflict of interest	15%
Outside functions	8%
Other	22%

Source: Niemeijer, Huisman, Beijers 1996: 20.

The number of investigations by the National Police Internal Investigation Department (Rijksrecherche) also gives an impression of the extent of the corruption problem. This police force operates with jurisdiction over the whole public service and it made the fight against serious public corruption its main issue. In 1999 the number of completed investigations on corruption was 92, on fraud 12, forgery 16, perjury 3 and betrayal of secrets 20. About 50% of the total number of investigations is on the police.

Opinion research among Dutch politicians and civil servants in 1997 offered information about the opinions about the extent of public corruption and fraud. A clear majority of politicians and civil servants disagreed with the statement that corruption is widespread in the public sector (Van den Heuvel, Huberts and Verberk, 2001). About 15 % agreed with a contrary view.

At the same time, the problem is considered important enough to pay serious attention to safeguarding public integrity. The cases of corruption that do occur, seriously undermine the credibility and legitimacy of the political and administrative system. Therefore, most respondents do expect that integrity will continue to be an important issue.

Research by Gillissen (1999) among Dutch civil servants gave an impression of the kind of integrity violations and improprieties they encounter in their work. Unjustified methods and procedures (22%), favouring friends (21%), secrecy about information that is important for the public (13%), fraud (9%), manipulating information given to politicians (9%) are among the most mentioned forms of improper behaviour.

Integrity in the private sector is not a political issue in The Netherlands. There is almost no public and political involvement to secure integrity in the business sector. Even though many experts suspect that corruption is more profound in the business sector than in the public sector (Huberts, 1996), no attention is paid to this phenomenon.

Conclusion

The empirical findings as well as the expert opinions confirm the impression that corruption is not a widespread phenomenon in Dutch politics and administration. Nevertheless it is considered serious enough to pay attention to it. This holds certainly true for public integrity. This issue has been prominently placed on the agenda of many political and administrative organizations.

Corruption on the Agenda: 1992

Until 1992 the problem of public corruption and integrity received little attention in The Netherlands. It was supposed that corruption was a phenomenon with importance for the past and not for the present and for other parts of the world, but not for The Netherlands. It was in accordance with this attitude, that the biggest corruption scandal after 1945 in Dutch politics had hardly any consequences. In 1976 Prince Bernard, the queen's husband, was rumoured of having tried to influence government policies on military contracts in exchange for 1.1 million dollar from the American company Lockheed. After an investigation by an independent commission, the government made clear that the behaviour of the prince was questionable and inappropriate. This had consequences for his role as ambassador of Dutch business and his room to manoeuvre in military circles. However, it did not lead to a criminal investigation, nor was it a starting point for a serious debate about corruption and integrity in politics and business.

The neglect of the problem changed rather suddenly, in the beginning of the nineties, which was caused by a number of factors.

First, the revelations about political corruption and scandals in other European democratic countries, especially in Italy. They showed the potential importance of the corruption problem for countries like The Netherlands and the immense effect it can have on the legitimacy of an established political (party) system. Second, in the Dutch province Limburg a number of cases of local and regional corruption involving building companies were discovered (Dohmen, 1996). Regional newspaper journalists Dohmen and Langenberg pointed at a number of corruption cases resulting from the close relationships between local and provincial public functionaries and business. Their publications attracted national media interest.

Third, the Department of Justice, primarily responsible for the fight against organized crime, started to issue more explicit warnings about the extension of the activities of crime organizations and their interest in investing more criminal money into legal business (Van Duyne, 1993). Corruption might be the result and government was trying to make public functionaries aware of the dangers of organized criminal activity, including the corruption aspect.

In the same period, the Minister of the Interior, Mrs. C. Dales, responsible for the organization and quality of the public administration, decided it was necessary to pay more attention to integrity and the abuse of

public power. Every year, the minister speaks at the national congress of local government and she told her top civil servants to choose 'public integrity' as the central topic for the 1992 speech (Vriens, 1999). First, she did not like the interpretation of the subject by the civil servants in the first draft of the speech: "That is not what I ordered". Then, in less than a week, a new speech was written which was more in harmony with the minister's ideas about public integrity. She explicitly wanted to address the dangers of a decay in values and norms of democratic government and the crucial importance of integrity for politicians and civil servants. This should be recognizable in their behaviour (setting the example) as well as in integrity policies for their public organizations. Transparency and communication should be improved, attention was needed for organizational culture and integrity training, and cases of corruption and fraud should not be treated as unimportant incidents that could be ignored.

"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" (Dales, 1992, in Maas, 1996: 1).

The speech was a surprising one for the local government elite present at the congress and it stimulated the discussion about the necessity and possibility of policy changes to contribute to the prevention of corruption and fraud. Local and provincial governments initiated discussions and developed policies (Swennen, 1993; Koerten en Kuijken, 1994) and the same happened in the different national ministerial departments and in public (sub)sectors, as in the police and the tax and revenue services (Ruimschotel, 1993; Belastingdienst, 1995).

The climate changed, media and public opinion got more interested in different aspects of public integrity and in the years after 1992 several functionaries were involved in scandals. Most often, these scandals concerned relatively small cases. Two examples illustrate this.

The mayor of a small town was accused of corruption because he accepted that a small territory neighbouring his new built house was sold to him for a price which was considered below the market price. He was dismissed and is still fighting what happened because he felt treated very unjust (Van Poppel, 1997).

The party leader of the liberal-conservative party in parliament was involved in a scandal when media published the story that he had written a letter to the government minister for health with arguments in favour of the interests of a pharmaceutical trading company of which he was a board member. The accused politician argued nothing was wrong with being active in business, as long as such a position was publicly known (his position was in the register of the parliament). The majority of the Lower House of parliament accepted his explanation and motions to clarify or strengthen the rules were voted down. The scandal did not hamper the politician's career.

Other cases which attracted a lot of attention in The Netherlands concerned waste and fraud by members of the European Parliament and accusations of fraud and corruption of members of the European Commission (Committee of Independent Experts, 1999; Dohmen, 1999).

The last affair which has to be mentioned concerns the former mayor and alderman of the city of Rotterdam. Rumours about fraud and corruption led to an investigation by a local council committee with the help of KPMG Forensic Accountants. 800.000 expenditures in the years 1986-1999 were investigated by the accountants and in a number of cases serious doubts were mentioned whether the payments were of a functional or a private nature.

Most accusations concerned the former mayor Peper, at the time of the investigations Minister of the Interior responsible for government integrity (Soetenhorst and Zonneveld, 2001). The minister reacted rather furious, denying he ever did something improper.

Shortly before the investigation results were published, he resigned in March 2000, still arguing that the investigation was incomplete and inadequate.

After the political-administrative investigation, the Public Prosecutors Office started a criminal investigation, but it concluded that most cases did not show any evidence of criminal offenses and that it was not justified to go to court (also because the former mayor had decided to pay back fl 7000.- because some doubts remained about the appropriateness some expenditures in 1990-1991).

Anti-Corruption Policies 1992-2000: A Chronology

Mrs. Ien Dales, the Minister of the Interior in the Lubbers government of christian-democrats and social-democrats played a crucial role in putting integrity on the political and administrative agenda. As a result, her civil servants initiated many new policies. Mrs. Dales suddenly died in January 1994. Her successor was another well known Labour Party politician, Mr. Ed van Thijn. He was in office for a very short period of time because he had to resign after a parliamentary investigation into the methods used by the police in the fight against organized crime. In August 1994 a new government of social-democrats, social-liberals and conservatives came into power. Prime minister was Labour Party leader Wim Kok, the Minister of the Interior was Hans Dijkstal of the conservative party VVD. After the 1998 elections, the second Kok government with the same composition of parties was formed with the social-democrat Bram Peper as minister of the Interior and Kingdom Relations. As mentioned before, Peper had to resign because of a scandal in 1999-2000 concerning vouchers and the use of local government credit cards during his previous mayorship of the city of Rotterdam (1982-1998).

National policies

Three years after the speech of Ien Dales, in 1995, the Ministry of the Interior (Maas, 1996) concluded that substantial parts of Dutch public administration were active in integrity policies.

The policy initiatives of the ministry were aimed at raising public servants' awareness, to take sector-specific measures for safeguarding integrity in particular areas of government and tightening up legislation and regulation (Maas, 1996). This orientation is in accordance with conclusions by outside analyst Anechiarico on the nature of Dutch integrity policies: they seem to be more integrity than compliance based (Anechiarico, 1998).

The initiatives of the Ministry more specifically concerned:

- discussions with organizations representing occupational groups in the public sector (e.g. the union of Dutch Local authorities VNG)
- discussions with political parties to raise consciousness of integrity
- public access to information about political party funding (through self-regulation by the parties themselves)
- administrative approach to the threat posed by organized crime (with proposals to enable public authorities to be informed of the criminal background of potential business partners)
- the development of a method for ascertaining the sensitivity of the government apparatus to the improper influence of outsiders, and the dissemination of the method in the form of a set of guidelines
- the development by the National Security Service (BVD) of a method for governmental organizations to investigate and assess their own vulnerability to violations of integrity and to take measures in order to reduce this vulnerability (guidelines brought out in 1996)
- the definition of new criteria for positions which are confidential
- adopt a stand on the relationship between reprehensible behaviour and excluding membership of a representative body and the sanctions for persons in political office guilty of a breach of integrity
- workshops for mayors to enhance their role in protecting integrity at the local level
- stimulating preventive personnel policy in the civil service by the different ministries (incl. screening, rules of conduct, disciplinary sanctions, oaths, job rotation)
- a brochure for new recruits to central government
- extra policies on the police and integrity, to be developed in cooperation with the police service
- at the National Security Service (BVD) a Registration Centre for Integrity Violations (a disclosure office) is in operation at which anyone can report actual or suspected violations of integrity of public administration (BVD investigates and informs relevant organisations; in 1996 25 incidents were reported, in 1997 24, in 1998 19 and in 1999 46 incidents)
- regulations governing civil servants' additional activities (rules governing disclosure and registration and prohibiting certain activities), to prevent possible conflicts of interests.

Johan Maas of the Ministry of the Interior, with responsibility for integrity policies, wrote the case study for the OECD Ethics program and he concluded (Maas, 1996):

"Since 1992 there has been a government-wide increase in concern about integrity in public administration. Since then, several trends have become perceptible:

- whereas in the first few years the chief emphasis was on debate, developing ideas and raising awareness, policy has gradually moved into an implementation phase, including amendments to existing legislation and regulations;
- a bottom-up rather than top-down approach to the introduction and implementation of integrity-related measures is preferred. The effectiveness of these measures stands or falls with the level of commitment among an organisation's personnel;
- whereas the initial activities were geared towards imbuing public servants with a sense of the importance of integrity (chiefly through open discussions on the topic), the emphasis has since changed to concrete initiatives targeting procedures and the partners of the public sector;
- although the debate about integrity in public administration started at the level of central government, the theme of integrity has since come to figure on the agenda of every branch of public administration;
- in policy development for the protection and promotion of integrity, the preventive approach has constantly prevailed, without however the importance of ensuring an effective punitive system (criminal law, monitoring procedures) being neglected."

Local government

Local government also got interested in anti-corruption and integrity policies, although, as research showed, local governments differed substantially in their efforts (Niemeijer et al., 1996). Of the 441 local authorities that participated in the survey, 39% had no policies in this area, while 20% had written documents with policy initiatives. 22% of the local governments said they were preparing policies and 22% is paying some attention to it. When rules have been developed, they most often concern the acceptance of gifts (72%) and invitations (65%), having outside positions (44%) and dealing with information (34%).

New initiatives: Parliament

In 1996 the Second Chamber, the Lower House of Parliament adopted the motion Kamp c.s. (VVD, D66, PvdA, Groenlinks), asking the government to take certain institutional measures to protect the integrity of public administration. This stimulated as well as directed the policy development of national government. The motion concerned:

- Work outside the public service
- The receipt of gifts and benefits
- Procedures for reporting misconduct and suspected corruption
- Job rotation for positions susceptible to corruption
- The appointment of a confidential officer within government organizations.

At the end of 1999, after further discussions in Parliament, the Ministry of the Interior published a document with some new integrity measures concerning

- Internal financial disclosure
- Public disclosure of outside positions
- Whistleblowing.

In 2000, a number of changes in the legal framework are planned (OECD, 2000: 234):

- Tighten the anti-corruption regulations in the Penal Code.

- Provide a basis for regulation of financial disclosure, disclosure of work outside the public service and whistleblowing (with consequences for the Civil Service Act (Ambtenarenwet) and the General Civil Service Regulations (ARAR, Algemeen Rijksambtenarenreglement).
- Include core values in the new, modernised Civil Service Act (more than the 'impartiality in decision-making' which is mentioned in the existing law).
- Provide for the possibility to detect and disqualify companies found guilty of corruption, from future tenders and bids (Bill on the Promotion of Incorruptible Decision-Making in the Public Service BIBOB and the establishment of a Probity Screening Agency to advice local authorities).

Among the institutions to promote high standards of conduct, and to prevent and detect misconduct, are (OECD, 2000b: 236-238):

- -measures used by human resources management to promote an ethical environment, including basing recruitment and promotion on merit, checks on the vulnerability of new personnel by different types of examinations of antecedents (when a person applies for a position involving confidentiality, the BVD) conducts a vetting inquiry) and taking an oath or affirmation of office of new central government personnel;
- -informing and training public servants on ethics issues (to increase awareness and identify vulnerabilities) and the appointment of integrity confidential officers at all ministries (to provide advice and guidance);
- -other measures to promote high standards of conduct and assist prevention, including 'identifying and reporting conflict of interest situations, especially in areas of financial management, post public employment, receiving gifts and benefits such as fees, payments, and entertainment', improvements in administrative decision-making procedures (requiring reasons for decisions, providing redress, setting standards for timeliness of responses) and provisions against corruption in bids for public contracts;
- -disclosure policy: all civil servants have to disclose to their managers their outside positions that have a relationship to their work; the Civil Service Act will be amended to provide a statutory basis for regulations on internal financial disclosure (after the revision each minister will have to decide which public servants will have to disclose their assets internally);
- -procedures to report misconduct and suspected corruption (civil servants are obliged to report criminal offenses, whistle blowing policies are developed, to start with the amendment of law and regulations to provide the necessary legal framework; a civil servant will have to raise the matter to a superior and/or the departmental integrity officer and only in serious cases in which the highest level management does not take adequate measures, the external Commission on integrity in the civil service (Commissie Integriteit Rijksoverheid) can be asked to investigate the matter (Commission will start March 2001). A citizen confronted with wrongdoing by public servants can turn to the National Security Service for serious integrity cases or to the Nationale Ombudsman;
- internal control to support the improvement of ethical conduct in the public service. Internal control by the audit departments of the ministries supports integrity through the detection of risk areas and the revelation of individual case of fraud or corruption;
- disciplinary procedures in case of breach of public service standards, with a range of sanctions for reprimand, financial penalties, and reduction of holidays to dismissal;
- scrutinising misconduct in the public service. The National Police Internal Investigation Department (Rijksrecherche) operates with jurisdiction over the whole public service. Other investigative organisations involved in anti-corruption efforts are the National Security Service BVD, the Public Prosecutor's Office, the National Audit Office (external audits), the National Ombudsman and Parliamentary fact-finding commissions for special cases.

Evaluation

Integrity policies also include an evaluation by the Ministry of the Interior of the measures that are in place. This concerns the integrity policies of the national ministries. In 2000 and 2001 parliament was informed about the state of the art. Most ministries are involved in policies, although they also differ quite significantly in the methods and measures they implemented. An important more general conclusion is that the ministries have been paying a lot of attention to rules, codes and procedures to protect integrity

but that little is done in the field of control and compliance (Ministerie BZK, 2001b). and that cultural aspects (raising consciousness) did not get the attention they deserve.

More specifically the Ministry of the Interior pays attention to the different elements which were mentioned in a 1996 motion of parliament. The ministerial evaluation to parliament stated that

- All ministries do register relevant work outside the public service (central or decentralized).
- The receipt of gifts and benefits has been regulated in accordance with a circular of the Ministry of the Interior: gifts with a value of more than fl. 100.- cannot be accepted.
- All ministries have procedures for reporting misconduct and suspected corruption and the registrations concern cases of theft, corruption, fraud, conflicts of interest, inappropriate use of the internet, breaches of confidentiality, and fiscal offences. Because there is no agreement on what violations of integrity have to be registered, a comparison of the cases is "not useful". The Ministry of the Interior will consider how to get a better picture of the number and nature of integrity violations.
- In ministerial policies not much attention is being paid to job rotation for positions susceptible to corruption. Policies do exist, but on lower levels of the organization and this is considered to be wise to be able to adapt to varying types of vulnerability.
- The ministries have appointed confidential officer(s) who in most cases operate as functionaries for information and advise. The existence of the institution is not very well-known.
- Post-employment policies primarily concern the situation that a public servant leaves to a private company, after which that person is hired by the civil service to do the work (for a much higher prize in comparison to the previous situation). The Ministry of the Interior suggested that ministries should have to wait two years before hiring a former public servant, but that did not cause much activity; ministries do not consider this to be an important problem.
- The ministries appear to have different policies concerning examination of antecedents of new personnel. The Ministry of the Interior will try to develop uniform policies for the whole central government.
- Central government will implement whistle-blowing procedures which will be formulated in prepared new legislation, starting on January 1st, 2001 (Ministerie BZK, 2000b). The Commission on Integrity will start its work March 28, 2001. Because a member of parliament asked for it, the minister has send the new whistle blowing regulation to his colleague responsible for business regulations. The cabinet decided that it is not necessary to have a code of conduct for former ministers to prevent undesirable lobbying.

The policy development in local government is less comprehensive. Many municipal governments lack the procedures and regulations one would expect (e.g. on gifts, investigation of antecedents etc.). "Improvement is possible", the minister of the Interior concludes. The Union of Local Authorities adds that this is a responsibility of local government itself.

Central government also asked local governments to make public the income earned with outside jobs and activities, but it adds that the response was half-hearted.

Integrity policies in the police sector include the establishment of bureau's of investigation, a national code of conduct, screening for integrity, training and education to increase awareness, personnel policies, registration of outside jobs/activities, a centre of expertise on integrity and attempts to improve the available knowledge about (the extent of) integrity violations.

Political parties have to make public gifts of amounts of more than fl. 10.000.- Proposals have been made to sharpen the regulations (lowering the amount, including natural persons, including sponsoring; add sanctions). The Ministry is trying to get a better picture of all income sources of political parties.

OECD Convention

Bills to ratify and implement the OECD Convention on Combating Bribery in International Business Transactions have been sent to Parliament in April 1999, together with three EU treaties (OECD, 2000; Staatsblad 2000b). The implementing bill has been amended in order to be able to take account of questions raised by the parliamentary Justice Committee. Following approval of both bills by the Second Chamber of Parliament in mid-2000, the Senate approved at the end of 2000 and the bill was published in the Staatsblad on December 13th 2000. Consequently, the bill took force of law in February 1, 2001.

A special prosecutor has been appointed to deal with these and other types of corruption.

This ends a rather long process. The Netherlands has reacted rather slow compared to other countries, which fits into a pattern of non-interference with corruption in the business sector. For a long time, Dutch governments refused to end the tax deductibility of bribes. The Dutch minister for Developmental Aid Herfkens acknowledged that at a conference in Amsterdam in October 2000. She felt ashamed that The Netherlands were so slow in ratifying the OECD Convention (Volkskrant, 4 oktober 2000).

Dutch government has been more actively involved in the international struggle against corruption in developmental aid projects. The Ministry of Foreign Affairs organized a conference on the subject, together with the World Bank Institute in April 2000 (Gabriel, 2000).

National Integrity System of the Netherlands: A Review

It is always difficult to evaluate the anti-corruption policies of authorities. Nevertheless, something can be said on the basis of a comparison with the elements and aspects Transparency International has distinguished as relevant parts of an 'National Integrity System' (Pope, 1996; see also: Lawton, 1998; Sampford and Preston, 1998; Pieth and Eigen, 1999). These elements are the basis for international comparison in the TI project this study is a part of.

Before the Dutch National Integrity System is described, a number of the basic characteristics of the political, administrative and judicial system of The Netherlands are summarized.

Introduction The Netherlands

The kingdom of the Netherlands is a constitutional and hereditary monarchy. The monarch is head of State and has mainly formal duties, and executive power is exercised by the Council of Ministers led by the Prime Minister.

The first Constitution of The Netherlands was adopted in 1814 and it has subsequently been revised and amended. In 1918 universal suffrage was added, in 1953 the recognition of the supremacy of written international law and in 1983 classical human rights were extended and social rights were added: employment, health, education etc.

The Council of Ministers is responsible to parliament, the State General. Political life is characterized by coalition governments between social democrats, christian democrats, liberal conservatives and social liberals. Cabinets need the support of a majority of the Chambers of parliament. The ministers are responsible to parliament for all acts of government. Central government is organized in 13 ministries.

The Parliament of the Netherlands is called the States General. It consists of two chambers, a First and a Second Chamber. The Second Chamber which is the more important politically, consists of 150 members directly elected for four years on the basis of proportional representation. The First Chamber consists of 75 members elected by the members of the 12 provincial councils (who are themselves directly elected).

The Constitution attributes legislative competence primarily to both the government and the States General. The most important competence of the States General is its role in the legislative process (with for then Second Chamber the right of initiative and amendment).

The Dutch parliamentary democracy includes the full authority of parliament to decide publicly about the budget.

There are three types of corporate body at the sub-national level: provinces, municipalities and polder boards. The provincial and municipal councils are elected directly.

They have a certain independence from central government which gives the state structure a decentralized character.

At the supranational level, the European Union is most important. The Netherlands was among the founding members and has always been in favour of extending the authority of european institutions, including European parliament.

The Dutch legal system is characterized by a great variety of form and content. The organisation of the judicature is quite diversified, though the civil and penal judicature have a certain unity of organisation (in a public prosecutors service and a judiciary). An extensive system of administrative justice with separate courts has been developed. There is no administrative supreme court nor a constitutional court. Jurisdiction by jury is also unknown in The Netherlands. The administration of justice is purely professional. Justices and judges are nominated by the government for life (until 70 years of age).

The Dutch police consists of 25 regional police forces and one national force. National government is responsible for finance and organization and has some influence on the priorities of policing but the authority over police operation rest primarily at the local level (public order en safety) and the public prosecutors office (investigation of crime).

National Integrity System

Are the elements of the National Integrity System present in The Netherlands?

The relevant institutions concern the executive, the legislature, political party funding, a Supreme Audit Institution, the judiciary, the civil service, police and prosecutors, public procurement, the ombudsman,

investigative watchdog agencies, the media, civil society, local government and the over-all government strategy.

Executive

First, there are anti-corruption procedures, rules, norms, practices and policies concerning the executive.

In The Netherlands citizens can *sue the government* in a civil or administrative law suit and several parts of the Penal Code refer directly to punishable behaviour of civil servants and politicians (e.g. on corruption). However, an important exception has been made concerning the possibility of criminal charges against public servants. When government activity has a public character, when it cannot be realized by private companies, the responsible public servant cannot be convicted when he violates a law. In 2000 and 2001, two tragedies because of an explosion and a fire aroused a public debate about this exception: what to do if the disasters had been caused by inappropriate government control of fire safety regulations?

Central government is preparing amendments of the Civil Service Act to provide a statutory basis for regulations on internal *financial disclosure* of top civil servants. After the revision each minister will have to decide which public servants will have to disclose their assets internally.

This means a first small step has been taken in the direction of disclosure. Until now Dutch government was very reluctant about disclosure. In their eyes, the privacy argument has been more convincing than the possible dangers of conflicts of interest.

This does not mean that conflict of interest rules have been absent. Impartiality is an element of law. Additionally central government and many local authorities have rules concerning gifts, hospitality and outside jobs and activities. A register is lacking however. There is no public control, no special institution with staff, no oversight whether the rules lead to sanctions. Top management controls what is happening and is responsible for the implementation of the norms.

The Netherlands has an extensive system of *administrative law* which includes obligations for governments to give reasons for decisions, to inform the citizens involved, to give the opportunity to appeal.

There is an open, competitive and transparent system of *public procurement*, government has become more alert on the possibility of corruption in bids for public contracts. The obligation to give the contract to the lowest bidder makes it difficult however, to refuse to do business with persons and companies with a dubious reputation. A new bill should provide for the possibility to detect and disqualify companies found guilty of corruption from future tenders and bids (Bill on the Promotion of Incorruptible Decision-Making in the Public service BIBOB) and a Probity Screening Agency will advice local authorities in this respect.

A system of *administrative checks and balances* is in place in the sense that the system of government and administration leads to the involvement of many different actors in decision-making. Research shows that the Dutch political power system is pluralistic of nature and that it is not very difficult for outside actors to gain access to administrative as well as political decision-making arenas (Peters, 1999).

On the level of individual public servants, checks and balances are often present (separation of responsibilities, a system of control, regular audits), although little attention is paid to job rotation. Public service managers consider job rotation as unnecessary.

Executive	formal	actual, in relation to NIS
can citizens sue government	yes	no criminal law sanctions
financial disclosure high level officials	no	only preliminary attempts to make disclosure possible in the future
conflict of interest rules	yes	rules in law and regulations; no code of conduct, no public control
rules on gifts and hospitality	yes	
registers on gifts and hospitality powers, staff ever invoked	no no	no institution for control and advice
give reasons for decisions power: contract and licensing administrative checks, balances	yes yes yes	job rotation not valued

Legislature

The Dutch parliamentary democracy includes the full authority of parliament to decide publicly about the *budget*.

There are hardly any exceptions for the rule of legislative approval. Even the activities of the Secret Service are the subject of control (through confidential meetings of a small committee of the leaders in parliament of the important parties).

Conflict of interest rules have been discussed in parliament but the Second Chamber concluded that a code of conduct would be unnecessary and/or inappropriate.

There are no specific *rules on gifts and hospitality* for parliamentarians.

Two registers are kept and open to the public. One concerns outside activities and jobs. The other is on travelling abroad (destination, goal of trip, sponsors).

There is no separate institution with powers and staff which is responsible for the control of these registers.

Elections are organized without party politics interference. The neutrality of the procedures nor the results are questioned (although now and then a case of fraud is discovered, mostly in smaller villages with candidates or parties irregularly collecting votes).

Legislature	formal	actual, in relation with NIS
approve the budget exceptions to legislative approval	yes no	
conflict of interest rules parliament	general	general rules, refusal of code of conduct
rules gifts and hospitality	general	no code of conduct
registers for gifts and hospitality	partly	registers on jobs and travels (not on gifts)
powers to enforce disclosure	no	
staff to investigate allegations	no	no institution for control and sanctions and advice
powers of sanction on parliamentarians, invoked	no	
public registers for gifts and hospitality (independent) electoral commission	partly yes	no register on gifts; public register on jobs and travels

Political Party Funding

In The Netherlands, the main funds of political parties have always been provided by the party members. Additionally, government subsidised specific suborganisations and activities, mainly youth organisations and party think tanks. Most political parties have suffered a considerable decrease in the number of members and this stimulated discussion about sponsoring as well as public financing. As a result, state subsidies have increased.

Most parties refuse sponsoring by business with the exception of the conservative party VVD (if gifts are in accordance with its code of conduct for sponsoring). The government is not willing to prohibit business sponsoring, although a majority in parliament is in favour.

Consultation between government and political parties resulted in a procedure for gifts and sponsoring. Self-regulation has been favoured by both sides. This means that gifts of more than fl. 10.000.- have to be made public (excluding natural persons). At the same time, party finances are all but transparent. In its evaluation, the Ministry of the Interior states it tries to get a better picture of all income sources of political parties (Ministerie BZK, 2001a).

Political party funding	formal	actual in accordance with formal
rules on political party funding	no	only rules about making transparent gifts
donations and sources made public	partly	party incomes not transparent
rules on party expenditures	no	
party accounts published	yes	
accounts checked by independent institutions	unknown	self-regulation has been the norm
investigations by independent institutions	no	

Supreme Audit Institution

The Algemene Rekenkamer (National Audit Office) is the Supreme Audit Institution of the Netherlands. The Office (Board) of three members and three deputy-members is appointed by the central government (out of a selection by Parliament of a list presented by the Office itself) along political party lines. Nevertheless, the Board and the institution have successfully protected their independence. It conducts external audits covering all parts of the national public service and related agencies (in addition to the control by the audit departments of the ministries which perform internal control reviews during the year with a frequency which depends on risk assessment). Reports are published, and if the reviewed ministry disagrees with the conclusions, its comments are added.

Every year the National Audit Office reviews the financial state of central government. Integrity is not an aspect which is reviewed in all investigations. A special report on integrity of the central government was published in 1996. It concluded that only three ministries had developed policies of their own (they did more than reproducing what the Ministry of the Interior had presented) and that clear information on the amount and content of integrity violations is lacking (Algemene Rekenkamer, 1996: 15). In 1999 the National Audit Office published a report on integrity in the Taxation Service, followed in 2000 by a report on integrity policies in the prison system.

On the provincial and local level, the provinces and a number of bigger cities have established Audit Offices with independence and responsibilities that are comparable to the Algemene Rekenkamer.

Supreme Audit Institution	formal	actual in accordance with formal
independent national auditor	yes	internal and external auditing institutions are present; the audits are important for integrity but it is not an inherent aspect of all investigations
all expenditures audited annually	no	
reporting up to date	yes	
reports debated by legislature	yes	
all expenditures in official budget	yes	

Judiciary

The Dutch judicial system can be characterized as an independent, impartial and informed judiciary. Judges are appointed for reasons of competence (although for the Supreme Court there is an informal

practice that all major political traditions are represented). Independence is also guaranteed by the principle of permanency of the judiciary, with no removal from office other than for just cause and by due process, and their security of tenure until death, or on reaching retirement age. Promotion is not a transparent matter, but there have been no cases of contested interference from the executive.

In education and training of judges and prosecutors, nowadays some attention is being paid to integrity. This is a rather recent phenomenon; there was and still is reluctance in and outside the judicial sector to talk about the subject; it was considered so obvious and natural that people felt offended even by the suggestion that it might be worthwhile to discuss topics of integrity and corruption.

A development in the direction of a more realistic interpretation of possible integrity problems has been stimulated by research and publications on outside jobs and activities of judges (Eshuis and Dijkhoff, 2000). Nowadays, the media and the public are not without doubts concerning the integrity of the judiciary and this might stimulate a development towards more transparency and accountability.

The constitution attributes the competence for establishing general obligatory rules at the central level to the formal legislator and to the government alone. The Netherlands do not have a constitutional court nor an administrative supreme court. The powers of the judiciary to review the actions of the executive are powers given by the multiple system of administrative jurisdiction.

The judicial system has shown to be able and willing to prosecute and convict corrupt public servants. However, the number of cases has been limited (Hoetjes, 1986, 2000). There is no evidence that the cause of this small number is reluctance on part of the judiciary. Most important seems that corruption charges are hard to prove because a causal relationship has to be established between the bribe and the policy decision. Recent changes in the Penal Code aim to make it easier to prove corruption, but the effect is not clear yet (Sikkema, 2000).

Judiciary	formal	actual in accordance with formal
courts jurisdiction to review executive	partial	primacy for the legislature
independent judges, investigative magistrates	yes	
recruitment and promotion on merit	yes	
instances of successful prosecution of senior officials	some	no obvious relationship with reluctance judiciary
attention integrity in education system	some	limited transparency and accountability

Civil Service

The Netherlands has laws with sanctions for bribery. On February 1, 2001 the anti-corruption regulations in the Penal Code have been tightened. A public servant can be punished with four years in prison for asking or accepting a bribe when it results in a violation of his duty. Without that violation, the punishment is years in prison. Offering a bribe is punishable with a sanction of two years in prison.

For the law, politicians as well as civil servants belong to the category of public officials. In the new Penal Code, corruption by politicians is punished extra.

Government and cabinet ministers are responsible to parliament for all civil service activities. The civil service assists government and is organized *independently* from party political lines (although a cabinet takes into account whether all important political parties are represented in the top of the civil service hierarchy). Functionaries are appointed, merit comes first and there are no examples at this level of clear favouritism for family or friends (nepotism or cronyism) .

Since 1992, it has been discussed what rules and registers would be appropriate for *gifts* and hospitality. This resulted in a guideline by the Ministry of the Interior and Kingdom Relations which states for national government civil servants that gifts of more than fl. 100.- cannot be accepted. There is no register of gifts, nor an institution which is responsible for the implementation and control of this regulation.

Restrictions on *post public service employment* were unknown until the Ministry of the Interior suggested that ministries should have to wait two years before hiring a former public servant. The main reason was efficiency and not integrity. The problem of post-employment conflict of interest is considered unimportant in Dutch public administration.

Government and civil service decision-making is subject to an extensive system of *administrative law*. This system of law offers procedures and criteria for decision-making, the publication of decisions and the possibilities to appeal and complain.

Many government services offer possibilities to complain and the National Ombudsman is the institution designed for the investigation of complaints of citizens about national services.

Whistleblower protection has been a topic and first small steps have been taken in this respect. In 2001 central government works with new procedures. If a public servant has informed superiors and/or confidential officers about a serious case of fraud, corruption, waste or abuse and nothing is done, the civil servant can address a national integrity commission. This is accompanied by protection against possible harm.

Civil Service	formal	actual in accordance with formal
laws with sanctions for bribery	yes	
rules political independence recruitment, promotion on merit	yes	
rules to prevent nepotism, cronyism	general	no separate rules, only few examples problems
rules and registers gifts and hospitality	yes/no	rules yes, registers no
rules on acceptance gifts and hospitality	yes	
registers up to date powers to enforce, staff, sanctions, invoked	no	management is the primary actor. independent institutions are lacking post-employment an ignored problem
restrictions post public service	no	
procedures and criteria decisions published	yes	
complaint mechanisms and whistleblower protection	some	whistleblowing protection new and limited
means for complaints by the public	yes	

Police and Prosecutors

The Public Prosecution Service employs more than 2000 people including about 450 prosecutors.

In The Netherlands the relationship between government (the attorney general or Minister for Justice) and Public Prosecution is a delicate one. On the one hand, politicians are convinced that decisions about crime policies should influence the choices made by public prosecutors; on the other hand the discretion to prosecute demands that there is no interference with concrete decisions to prosecute.

Although there have been serious discussions about the acceptance of government authority by the leadership of the public prosecutors (and there has been a serious conflict between the two: Van Liempt and Van Westing, 2000), there is little doubt about the shared willingness to prosecute integrity violations. There is no evidence of attempts to influence public prosecutors by politicians, political parties or interest groups.

Nowadays, the Public Prosecution Service is clearly paying more attention to integrity issues than in the past. A code of conduct has been formulated for every employee of the service. The code addresses several more general aspects of integrity (for example basic values as honesty, impartiality, objectivity and accountability and the importance of integrity in one's private life) as well as rules concerning the relationship with colleagues, judges, defendants and their lawyers, victims, witnesses, the minister, public administration, the police, society, the media and foreign authorities. The code of conduct is being extended into professional standards for prosecutors and in descriptions of professional behaviour in actual cases of criminal investigation and prosecution.

The Dutch *police* consists of 25 regional police forces and one national force. Commissioners are appointed and promoted by the national government on the basis of merit. Party affiliation plays only a minor role (informally).

In one police force there is a special unit to investigate corruption and fraud by politicians and public servants. All forces have internal investigative units (sometimes one individual) with responsibility for investigating and protecting police integrity.

The National Police Internal Investigation Department (Rijksrecherche) is part of the Public Prosecution service and it operates under the responsibility of a public prosecutor (Board of General Procurators).

The Rijksrecherche is an *independent investigative unit*. It operates with jurisdiction over the whole public service and it made public corruption and fraud as priorities in its investigations. The unit consists of 70 investigators. In 1999 it completed 92 investigations on corruption, 12 on fraud, 16 on forgery, 3 on perjury and 20 on betrayal of secrecy. Most of the investigations concern the police (50%), other investigative agencies, the prison system and central and local government. It is discussed whether corruption investigations on politicians and civil servants should continue to have the priority it has had in the past years.

Special committees which are independent from the police forces handle complaints about police behaviour.

In the years 1997-1999 1707 investigation on *police misbehaviour* resulted in 344 dismissals or conditional dismissals (20%). Many investigations concern the use (excessive) violence (17%), fraud and theft (14%), leaking information (11%) as well as waste and neglect (9%), the discourteous treatment of citizens as e.g. discrimination (8%) and misbehaviour in ones private time (8%) (Van der Steeg, Nieuwendijk & Lamboo, 2000).

Corruption as behaviour which damages organisational and/or public interests because of the personal gain involved is not among the distinguished categories. Clear cases of bribing are rare.

No unusual, extra *instruments* can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery. There is no system of integrity testing.

Police and Prosecutors	formal	actual in accordance with formal
independent commissioner of police, appointments, functioning based on merit	yes	
public prosecutors independent	yes	
special units for investigating and prosecuting corruption crimes	limited	rijksrecherche is the only independent investigative unit
independent mechanism to handle complaints of police corruption	yes	
civil society role in complaints	yes	
have police officers suspected of corruption been prosecuted	yes	criminal prosecution is rare
cases of corruption within the prosecuting agencies: police, prosecutors, judges	yes, no, no	
legislative instruments of the police and public prosecutors for corruption/bribery	no special	no integrity testing or special instruments for this problem
private-to private corruption punishable by law? law applied? cases of prosecution, success reasons	yes no	in law, but no topic in public debate nor in judiciary practices

Over the years a similar number of *cases of prosecution* of public sector corruption have been undertaken. Hoetjes showed the number is stable as well as the number of successful convictions (Hoetjes, 1991). When public officials are tried, other parts of the Penal Code play a more important role (e.g. forgery or theft).

Whether the new laws make it more attractive for prosecutors to investigate and prosecute on the anti-corruption articles, is yet unknown.

Private-to private corruption is punishable by law but corruption in the business sector is a non-issue in Dutch politics and public debate. As a consequence, the law is seldomly applied.

Public procurement

There is an open, competitive and transparent system of public procurement Government has become more alert on the possibility of corruption in bids for public contracts, but there have been examples of dubious contracting, in particular in smaller towns (favouring local or locally well-known businesses).

Another problem is that the obligation to give the contract to the lowest bidder has made it difficult to refuse to do business with persons and companies with a dubious reputation. A new bill should provide for the possibility to detect and disqualify companies found guilty of corruption from future tenders and bids (Bill on the Promotion of Incorruptible Decision-Making in the Public service BIBOB) and a Probity Screening Agency will advice local authorities in this respect.

Nevertheless, there is competitive bidding for all major procurements, although the amount of public control is limited. This is also true for the control on involved officials; the assets, incomes and life styles of public procurement officers are not monitored.

Public procurement	formal	actual in accordance with formal
rules requiring competitive bidding for all major procurements	yes	the system seems open, transparent, although there are cases of dubious procurement, (especially for the smaller cases and towns)
rules laid down in public documents	yes	
limitations on sole sourcing	yes	
procurements widely advertised	yes	
procurement decisions made public	yes	
procedure to review decisions	yes	
decision review in court	yes	
provisions for blacklisting of companies proved to have bribed	no	in preparation
rules and procedures to prevent nepotism/conflict of interest	no	no special requirements for this sector
monitoring assets, incomes, life styles of public procurement officers	no	monitoring is absent

Ombudsman

In The Netherlands the 'Nationale Ombudsman' is a 'High Council of State', formally independent from the government. It constitutes the office that independently receives and investigates complaints of maladministration. The Ombudsman institutes an investigation following a complaint or on his own initiative.

The National Ombudsman employs more than 100 staff (1999). It is not possible to complain anonymously, but the Ombudsman can decide to protect the complainant by not revealing his name towards the administrative body.

Its jurisdiction is limited to the police, the ministries and most national autonomous administrative authorities and local and provincial bodies which choose to join (at their expense).

199 out of 537 municipalities have an independent institution for complaints (Burgers and Bakker, 2001). This number is increasing. 62 joined the Nationale Ombudsman, a small number of municipalities (20 including the four largest) have set up their own municipal ombudsman. Many municipalities have a local ombudsman committee of well-respected citizens for complaints about local government (22%). Some have a regional institution for these complaints (5%).

The Ombudsman examines whether a decision, process, recommendation, act of omission or commission is contrary to law, rules or regulations or whether neglect, inattention, delay, incompetence, inefficiency and ineptitude in the administration or discharge of duties and responsibilities has been the case.

In 1999 the National Ombudsman received 7681 complaints. The ombudsman deals with complaints via intervention (81.5%) or by producing a report (18.5%). Reasons for the complaint primarily concerned (the violation of) general binding regulations (19.5%), fairness and balance (12.2%) and due care (57.3%), including promptness, information provision, accuracy and correct treatment. In over 90% of the cases, the complainant was given satisfaction by the government body concerned. The received complaints

concerned a variety of institutions; among them are the police (524 complaints or 6.8%), the Public Prosecutions Department (1.8%), the Ministry of Justice (26.6%, by far the body with the highest number of complaints, primarily about the Immigration and Naturalisation Service).

More in general, the Ombudsman institution plays a relevant role by its investigations and recommendations. The Ombudsman itself is very positive about the willingness of authorities to apply its recommendations.

Only a very limited number of complaints of citizens concern corruption and fraud by public servants. In the anti-corruption infrastructure it is of minor significance in The Netherlands.

Ombudsman	formal	actual in accordance with formal
an ombudsman to which citizens can make complaints about maladministration	yes	primarily national level; hardly any corruption complaints
ombudsman independent	yes	
appointments based on merit	yes	
appointee protected from removal without relevant justification	yes	
has an ombudsman been removed	no	
can petitioners complain anonymously if they fear possible reprisals	no	no anonymous complaining; name can be kept secret
reports of the ombudsman published	yes	
Does the government act on the Ombudsman's recommendations	yes	

Investigative/watchdog agencies

An Anti-Corruption Bureau with a more general task concerning corruption is lacking in The Netherlands. There is no institution which collects information on the extent and nature of the corruption phenomenon.

There are no agencies or bureau's with a responsibility for (anti-)corruption prevention and information.

An independent investigative agency is the National Police Internal Investigation Department (Rijksrecherche). In order to guarantee its independence of the from police and political authorities, it is part of the Public Prosecution service.

Investigative/watchdog agencies (e.g. Anti-Corruption Bureau)	formal	actual in accordance with formal
Are there special investigative or watchdog agencies? Are they independent? Are appointments required to be based on merit? Are appointments generally based on merit? Are the appointees protected from removal without relevant justification? Are their reports published (other than when criminal charges are pending)? Do they report publicly to the legislature on the general scope of their work? Can people complain to the agency without fear of recrimination?	no	exception: rijksrecherche (limited in man-power), only criminal investigations

Media

An independent and diverse media is an important means in countering the excesses of politicians and public servants, also in The Netherlands. Laws and constitutional provisions guarantee the basic freedoms of press, speech and association as well as the access to all government papers (only constrained by national security and individual privacy considerations). Although some concentration of ownership has taken place, the media are pluralistic and diverse (and the significance of tabloids is small).

In the nineties the media played an important role in making the public and the political system aware of the seriousness of fraud, corruption and other integrity violations. Although the number of investigative journalists is small, they clearly succeeded in bringing a number of integrity scandals before the public eye. The law on 'making public public administration' helped them in that. The journalists were not harmed by their publications (some even received the annual reward for best journalism: Dohmen and Langenberg).

Media	formal	actual in accordance with formal
Is there a law guaranteeing freedom of speech and of the press?	yes	
Is there censorship of the media?	no	
Is there a spread of media ownership?	yes	some concentration of ownership
Does any publicly-owned media regularly cover the views of government critics?	yes	
Have journalists investigating cases of corruption been physically harmed in the last five years?	no	
Does the media carry articles on corruption?	yes	
Do media licensing authorities use transparent, independent and competitive criteria and procedures?	yes	
Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?	no	

Civil Society

Civil Society includes those organisations, structures and networks which are separate from the legislative, administrative and judicial power of the state, but interact in a variety of ways and lies outside the formal state apparatus. This includes the press, non-governmental organisations, religious groups, trade unions, student organisations and so on. Although Transparency International regards civil society as a fundamental pillar of a National Integrity System, this pillar has been rather weak in The Netherlands. There is no anti-corruption movement and it is illustrative that it took a comparatively long time before a chapter of TI was established and the presence and impact of TI The Netherlands still is rather small.

First, this can be explained by the relative unimportance of the corruption problem in the country itself. Other integrity violations, which are more prominent in The Netherlands, are not integrated in TI's work internationally.

Second, it was and is problematic to convince Dutch business of the importance in involvement in an international anti-corruption struggle. Self interest as well as anxiousness to be associated with the subject, seem to account for that.

Exceptions to the lack of civil society involvement are the press (see elsewhere) and the universities. Several research projects at different universities and research companies did contribute to the understanding of the problem.

Civil Society	formal	actual in accordance with formal
Does the public have access to information and documents from public authorities?	yes	a separate law guarantees access
Do the public authorities generally cooperate with civil society groups?	yes	
Are there citizen's groups or business groups campaigning against corruption?	no	with small TI chapter as exception
Are there citizen's groups monitoring the government's performance in areas of service delivery, etc?	no	with some exceptions (public transport e.g.)
Do citizen's groups regularly make submissions to the legislature on proposed legislation?	yes	public participation is high, in action groups and social movements, but not on corruption

Local Government

Local government in The Netherlands is powerful, open and democratic.

This does not mean that they are actively involved in anti-corruption policies. Local governments differ substantially in their efforts to develop and implement integrity policies (Niemeijer et al., 1996). Some major cities and local governments are very active (Amsterdam: Verlaan, 1999), others are reluctant to develop policies.

Local Government	formal	actual in accordance with formal
Is there a legal requirement that meetings of city/ town councils be open to the press and public?	yes	open and democratic government is not identical to involvement in anti-corruption efforts
Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?	yes	

Progress with Government Strategy

Since 1992, Dutch national government did announce anti-corruption measures and the reports to parliament show many initiatives on laws, rules, guidelines, training and education, consciousness raising et cetera. Many initiatives have been mentioned in the previous paragraphs.

Government intervention has clearly been stimulated by the Minister of the Interior who put the topic on the agenda in 1992 and a parliamentary motion which asked for policy initiatives in 1996. International developments like the OECD convention on bribery had a positive influence as well.

At the same time, the over-all policy development shows some characteristics which give rise to reflection.

First, individual involvement by the political elite seems to matter significantly. The Ministers of the Interior Dales and Peper made a difference, minister Dijkstal showed to be less interested in this field (with consequences for the amount of new initiatives by the ministry).

Second, the policy development has been incremental in character. Attention has been paid to specific subjects but a more comprehensive or synoptical view on public integrity is lacking. The plan the ministry presented in 1999 shows reflection, but only on the specific subjects brought forward by a motion by parliament. It illustrates that the national government is more inclined to react than to anticipate.

Third, it is remarkable that central government has no clear picture of the extent of the corruption and integrity problem. Data were collected by journalists, not by government agencies.

Fourth, there is no visible and recognized institution with responsibility for government and/or civil service integrity. The involvement of the ministry that is crucial for political and administrative integrity, the Ministry of the Interior, seems to depend on the few public servants who are made responsible for this policy area. An departmental unit with as its primary task and responsibility to develop and evaluate integrity policies is lacking.

Progress with Government Strategy	formal	actual in accordance with formal
Has the government announced an anti-corruption strategy and a timetable for implementation?	yes	the record is impressive in its own merit but also incremental and incomplete
How much of the strategy has been implemented?	a lot	
Is the government meeting its own timetable?	yes	a view is lacking institutions are lacking

The Integrity System of The Netherlands: An Evaluation

Introduction

What can be said about the anti-corruption policies of The Netherlands on the basis of the elements and aspects Transparency International has distinguished as relevant parts of an 'National Integrity System'?

The previous review presented a portrait of that system. In this paragraph an evaluation will be added. Do The Netherlands meet the requirements of the complex integrity system?

The sketched institutions concern the executive, the legislature, political party funding, a Supreme Audit Institution, the judiciary, the civil service, police and prosecutors, public procurement, the ombudsman, investigative watchdog agencies, the media, civil society, local government and the over-all government strategy. Some of the anti-corruption institutions are self-evident for constitutional and democratic states like The Netherlands (since the constitution of 1848 with the basic ingredients of a constitutional state and the democratisation of 1918 with general elections as primary achievement). Others are much more specific.

To be able to present a comprehensible evaluation, picture will be presented of central elements of each institution. The concluding paragraph will present an over-all evaluation.

In Annex 2 a more precise evaluation score of distinguished elements of the Integrity System is presented.

National Integrity System

For the *executive*, most elements of a national integrity system are present in The Netherlands, including a system of administrative law concerning careful decision-making. A point of criticism might be that citizens seem reluctant to sue government officials, but this is seen as an advantage of the system (compared to societies in which suing and lawyers dominate conflict mediation).

More doubts are justified on the *lack of disclosure* of possible conflict of interest of top civil servants and members of cabinet as well as the refusal to adopt rules concerning gifts, post-employment involvement etc. There are rather general rules in laws, for example on impartiality, and regulations on gifts for national government civil servants, but the system of rules is incomplete and unclear on whom it concerns. A code of conduct could solve the problem but that solution has been rejected.

There have been discussions on these topics in society and parliament, but this did not convince the government. Main arguments against a code of conduct and a system of disclosure concern its superfluousness ('there is no problem') and the privacy of the functionaries involved.

The Netherlands is an advanced representative parliamentary democracy, with a primacy for the elected *legislature*, control of parliament over the whole budget and a transparent electoral system. Additionally there is transparency about the outside functions and activities (paid and unpaid) through a register. Another register concerns visits of parliament members to other countries (who travels to what and who is sponsoring).

What is lacking is clarity about the criteria for outside positions and activities, gifts etc, although one might expect parliament to abide to the rules it approved for the public service. Guarantees are non-existent however, because the Second Chamber explicitly refused to adopt rules or a code of conduct. Public disclosure of assets is absent as well.

The arguments of parliament in this respect are comparable to that of ministers (unnecessary, privacy).

Government did choose self-regulation as the central mechanism for *political party funding*. Substantial donations by organizations are made public, but that amount is relatively high and natural persons are excluded. There are no strict rules on party expenditures although until some years ago there was an informal agreement that parties would not use television advertisement in election campaigning. This kept the costs comparatively low. Most political parties support banning business sponsoring but government refused to take the initiative.

Over-all political party finances are not very transparent, not even for the Ministry of the Interior. This is a problem, also because of the planned substantial increase in state subsidies of political parties. When this is not accompanied by more transparency and clear rules on party sponsoring and party expenditures, this might become a new field of integrity problems in The Netherlands.

There is a *supreme audit institution*, a national audit office with powers concerning central government (Algemene Rekenkamer). It is independent, its reports are published and discussed and the Office paid extra attention to integrity in a number of investigations. A point of discussion might be whether integrity should not be a more integral part of all its investigations (besides effectiveness and efficiency).

The *judiciary* system is independent, based on merit, and not afraid to prosecute politicians or civil servants for integrity violations. Nevertheless, corruption charges are rather rare because this offence is difficult to prove (and prosecutors prefer to charge a corruption suspect with theft or forgery). A renewal of the Penal Code is meant to improve this.

There are laws against bribery with severe criminal sanctions as well as laws and regulations on the independence and impartiality of the *civil service*.

Regulations are present on gifts and rules and registers on outside positions.

There is no institution other than management responsible for these registers. There are no conflict of interest restrictions on post public service employment.

An extensive system of administrative law and complaint possibilities is in place but whistleblower protection is new and very limited.

Although *police* commissioners are appointed by the Minister of the Interior, merit is the central mechanism in appointments and police chiefs cannot be removed without relevant justification. The *prosecutors* are independent.

In the police a number of corruption cases have been investigated and prosecuted and police integrity is a subject most forces pay attention to. No judges or prosecutors have been prosecuted on corruption charges.

The normal legislative instruments can be used to investigate corruption. Special instruments as integrity testing are absent.

Private-to-private corruption is punishable by law but it is no issue in public debate and it gets no attention in policing and prosecution.

The National Police Internal Investigation Department (Rijksrecherche) is the national police force with responsibilities for corruption investigations but its capacity is limited and there is a tendency to limit the priority the force gave to public corruption.

There is an open, competitive and transparent system of *public procurement*. Provisions for blacklisting of companies proved to have bribed have been proposed. Special monitoring of the assets, incomes and life styles of public procurement officers are absent.

A national *ombudsman* system is functioning, which is important for citizens who have complaints about (national) government bodies, but corruption complaints are rare. Anonymous complaining is not possible.

There is no independent *anti-corruption bureau* or commission. For investigations, there is the Rijksrecherche, but that small force has no responsibility concerning corruption prevention or information. There is no institution which collects information on the extent and nature of the corruption phenomenon.

The *media* are free and independent and are willing to pay attention to corruption cases.

Civil society is pluralistic and active in influencing government policies but corruption is not an issue. The public access to documents from public authorities is guaranteed by law.

Local government decision-making is open to the press. The attention local authorities pay to corruption and integrity differs.

Since 1992 there is a *government strategy* against corruption and, as this evaluation shows, it is characterized by an impressive amount of initiatives in combination with some remarkable blind spots. The concluding paragraph clarifies that argument.

Conclusion

Most parts of Transparency International's 'National Integrity System' framework are present in The Netherlands. First, this is true for the institutions that are self-evident for *constitutional and democratic states* like The Netherlands.

Among these institutions are:

- civil and human rights, provided in the constitution

- an elected legislature, with power to hold public officials to account
- an independent and impartial judiciary and public prosecution
- the rule of law: government operates within the confines of the law
- free and independent media
- a free civil society, with a multitude of active groups, organisations and movements.

After the second World War the basic framework of the constitutional and democratic state has been extended and improved. The transparency and accountability of government have become more important. In The Netherlands *society democratized* and became more active; the pillarized society, in which the elites of the different segments of the population (protestant, catholic, non-religious liberal and social-democrat pillars) dominated political decision-making on behalf of their followers, changed fundamentally. Among the changes that are relevant are:

- the extension of administrative law
- a law on the publicness of government information
- the creation of a National Ombudsman
- the establishment and improvement of complaint mechanisms
- the extension and improvement of the national auditor system.

Integrity policies

More specific anti-corruption and integrity policies have been developed since 1992. Among them are:

- rules on gifts and hospitality for the public service
- rules on types of conflict of interest (outside positions, jobs)
- register on secondary activities and travels parliamentarians
- more transparency party donations
- integrity investigations by national auditor
- changes in the penal code
- improvements in public procurement, contract and licensing
- first steps on whistleblower protection, post-employment regulation.

In summary, there is a parliamentary democracy with many political parties, government is held responsible for its administration and a modern civil service system (administrative organization, working conditions) makes the occurrence of corruption a rare phenomenon. The administrative law provides many guarantees to ensure decision-making in the public interest. There is also an ombudsman as well as other procedures to report alleged misconduct. The judiciary is independent and the penal code clear and deterrent. There is an open, competitive and transparent system of public procurement and last but not least an alert and free press is keen on exposing public corruption.

A first conclusion should be that many elements of a national integrity system are present in The Netherlands.

What is missing

The Netherlands does not possess all characteristics of Transparency's National Integrity System. Table 5 summarizes the inadequacies.

Table 5: 'National Integrity System' of The Netherlands: Inadequacies

Major Inadequacies National Integrity System
<p>executive</p> <ul style="list-style-type: none"> o no financial disclosure high level officials o no conflict of interest rules o no registers on gifts and hospitality o no register institution <p>legislature</p> <ul style="list-style-type: none"> o no conflict of interest rules o no rules on gifts and hospitality o no registers for gifts and hospitality o no register institution <p>political party funding</p> <ul style="list-style-type: none"> o limited rules on political party funding o no rules on party expenditures o no investigations by independent institutions <p>civil service</p> <ul style="list-style-type: none"> o no gifts and hospitality registers o no register institution o limited whistle blower protection <p>police and prosecutors</p> <ul style="list-style-type: none"> o only a small investigative police unit o no special investigative instruments o neglect private-to private corruption <p>public procurement</p> <ul style="list-style-type: none"> o no monitoring of assets of officers o <p>no independent anti-corruption bureau</p> <p>weak civil society against corruption</p>

What do these inadequacies have in common? What are the blind spots in Dutch anti-corruption policies? Although it is not easy to derive more general patterns out of the mentioned inadequacies, a number of conclusions seem appropriate.

First, there appears to be a broad reluctance concerning managing conflict-of-interest situations and monitoring assets, income, liabilities and business interests of politicians and civil servants as well as political parties. There is no *system of financial disclosure* which makes it transparent whether improper interests play a role in decision-making processes. The protection of the privacy of public officials includes

the acceptance of confidentiality about their income and assets. This lack of transparency limits the possibilities to obtain an adequate insight in the extent of the phenomenon.

Insight is also prevented by the aversion against making it easier to blow the whistle on corruption. There is only limited protection of whistle blowers. Although cases of whistle blowing like that of the civil servant Van Buitenen, who accused the European Commission of fraud and abuse, have stimulated discussion, little has been done to encourage that corruption and malpractice is revealed by whistle blowers.

Second, there are clear differences between the integrity framework for the public service in general and the political and administrative *elites* (ministers, parliamentarians, top civil servants). These functionaries have successfully opposed the formulation of specific norms and rules for themselves, for example in a code of conduct. Parliament and the cabinet have argued more often that codes are not necessary. An important disadvantage of that attitude is that it is all but a stimulating example for local and provincial authorities to act on integrity. This might have a hampering effect on the dissemination of integrity policies through the political and administrative system.

Third, the framework shows a *weakness on institutions*. There are registers, but no institution to give them meaning (to advice, control and sanction). There are some regulations on political parties, but no institution to control and implement integrity agreements.

Above all, the integrity system lacks an (independent) institution with a more general responsibility for corruption information, prevention (incl. advise) and investigation. Criminal investigation rests with the Rijksrecherche and the police; prevention, information and advise belong to the tasks of the management of government institutions themselves. As a consequence, a number of anti-corruption activities are lacking. No institution is responsible for the collection of information on the extent and nature of integrity problems. There is no institution to turn to for information and advice. There is no institution which can help with an investigation other than a criminal investigation (with as an paradoxal exception the help offered by an institution not very well suited to contribute to public responsibility and transparency: the secret service) BVD).

Fourth, public involvement to secure integrity in the *private sector* is very limited, even though many experts suspect that corruption is more profound in the business sector than in the public sector. Existing law is not applied, business corruption gets no political or judicial attention. In line with this reluctance, is that it took The Netherlands a long time to join the countries which ratified and implemented the OECD Convention Against Bribery. When business interests are at stake, Dutch governments have acted with a large amount of tolerance (including the acceptance of the situation that bribes were tax deductible).

A combination of the arguments on public disclosure, lack of rules for the elites, weakness of institutions and neglect of the business sector leads to a plea to initiate an independent body or commission to protect public integrity and to stimulate integrity policies in the public and the private sector by gathering information, giving information and advice, developing prevention programs, assisting in investigations and stimulating public awareness.

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