

Summaries

Justitiële verkenningen (Judicial explorations) is published nine times a year by the Research and Documentation Centre of the Dutch Ministry of Justice in cooperation with Boom Juridische uitgevers. Each issue focuses on a central theme related to judicial policy. The section *Summaries* contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (vol. 31, nr. 7, 2005) is *Administrative corruption*.

Corruption and the corruption paradox; on the size of corruption in the Netherlands

L.W.J.C. Huberts and K. Lasthuizen

How corrupt is the Netherlands? The article reports the results of surveys among government institutions on internal corruption and fraud investigations. Information is offered about municipalities, national ministries, provincial government, polder districts, the courts and offices of the public prosecutor, semi-governmental organisations, the police and the prison system. Within these sectors, 130 *internal investigations* are conducted each year. Most of them are related to municipalities (61 investigations). A crucial aspect to take into consideration is that data about investigations appear to reflect the priority the organisations give to the struggle against corruption instead of being an indicator of the amount of corruption, the 'integrity paradox'.

Corruption of civil servants in Dutch criminal law

E. Sikkema

In 2001, the articles on corruption in the Dutch statute book of criminal law have been seriously modified. The central question in this article is how this revision must be assessed. An overview is given of the statutory regulation and of the modifications which have been carried out in 2001. As a result of this amendment of the law criminal liability has been extended considerably. The Dutch legislature has gone further than was necessary on account of international treaty obligations. In the second place the statutory regulation has become very complex and unclear and consequently very hard to handle. For this reason, the author proposes to simplify the statutory regulation.

Public corruption and law enforcement

H. Nelen

The central question of the article concerns the way public corruption is being dealt with in terms of law enforcement. Annually, one third of the 130 investigations on corruption result in the prosecution of one of the primary suspects. The main reason for the public prosecution department to waive prosecution is the execution of a disciplinary sanction by the employer of the corrupted public servant. In nine out of ten cases the prosecution of a suspect leads to a criminal conviction. Most people who are convicted for a corruption crime are sentenced to probation service and/or a fine. During ten years, only 77 persons were incarcerated, most of them were sent to prison for a relatively short period of time. The article reveals a gap between the sentence that the public prosecutor has in mind and the final decision by the judge. The latter takes several circumstances into account – i.e. publicity, organisational chaos at the workplace of the public servant – and tends to interpret these elements to the advantage of the condemned persons.

The corrupt official, the briber and their relationship

G. de Graaf

In this article the outcome of a ten case multiple case study is discussed, with the main research question: what can we say about the profile of a corrupt official in the Netherlands and what about his or her relationship with the briber? The cases for the research were selected from the files of the National Police Internal Investigation Department. Important motives for officials to become corrupt are, next to material gain: friendship/love, status and making an impression on colleagues and friends. About the personality of the corrupt official, it was confirmed that often, corrupt officials have dominant and strong personalities. They know 'how to get things done'. About the relationship between the briber and the corrupt official, it is noted that the relationship between briber and the official is often structural; corruption is part of an enduring relationship. The way the entanglement between public officials and private interested parties seems to be taken for granted in the Netherlands, may also be a relevant factor.

Foreign corruption and the Dutch National Police Internal Investigation Department approach

J.H. Maat

Foreign corruption – abusing the means or powers of foreign officials or administrators for private profit – is a tricky phenomenon. It is widespread and seems intangible. It has a domino effect, whereby the loss of faith in the government, through for instance investment withdrawals, ultimately leads to an economic and sociological breakdown. Thus, members of the Organisation for Economic Co-operation and Development (OECD) signed the Convention on Combating Bribery of Foreign Public Officials in Paris, in 1997. Partly as a result of this, the Dutch penal code was adapted in 2001. Since then, bribing foreign public officials and authorities has been punishable too. The Dutch National Police Internal Investigation Department (Rijksrecherche) has been requested to deal with foreign corruption. This article describes the phenomenon of foreign corruption, the international and national measures that have been taken, the thematic approach of the National Police Internal Investigation Department and the chances and threats in the battle against cross-border corruption.

Faces of corruption; an anthropological perspective

T.K. Sissener

The general and widely accepted definition of corruption as ‘the abuse of public office for private gain’ presupposes a definite separation between the state or its agents and society. Corruption is thus a deviation from the norm of the legal-rational principle, as established by Max Weber. Till at least the mid-nineteenth century, public office was defined as private property in much of Western Europe, which could be mortgaged, passed on as a gift, or sold. It was only later and with the development of democracy that public office came to be seen as separate from private property. In Africa and South Asia, on the other hand, the entire legal framework was for the most part a legacy of endogenous colonialism. The question explored in this article is the usefulness of the private/public dichotomy for deciding corrupt behaviour in non-western contexts.

The fight of the World Bank against fraud and corruption

M. de Jong

The fight against corruption by the World Bank was launched by President James D. Wolfensohn in his 1996 with his statement that corruption directly injures the ability to achieve the goals that have been set for poverty reduction. In 1997, the Board endorsed the framework of the Bank's anti-corruption strategy. Since its establishment in 2001, the Department of Institutional Integrity (INT) has investigated over 1500 cases. The Bank has an annual budget of US\$ 10 million for this work, making it the leader in resources committed among international institutions in the fight against corruption. The Sanctions Committee heard hundreds of cases involving alleged corruption by parties involved in Bank projects, leading to the debarment of over 300 firms and individuals. Referrals to national Criminal Justice authorities have led to 24 convictions by courts of law in multiple jurisdictions in the world.