

Education

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Ministry of the Interior and
Kingdom Relations

THE DUTCH PUBLIC SERVICE

*Organisation and functioning
of the government in the
Netherlands, the position of
civil servants and the main
developments*

Foreword

The Dutch government is traditionally an attractive employer, with an unusually high degree of social involvement and relevance. Virtually no other sector allows us to look behind the scenes so often.

According to international comparative research, the Netherlands does this very well. I believe that we can be justifiably proud of the quality of our government system and the people who work in it. The same vigour that we applied to build up this position is now being used to maintain and expand it. In the Netherlands, we do this along two tracks: firstly, by aiming to provide a government that is better equipped for the future and secondly, by ensuring that we have a good civil service.

The government of the future must be flexible – a government that can respond quickly and alertly to issues at the level at which they arise, so at both local and European levels. At the same time, the government of the future will increasingly be a network government. Civil servants of the future will need to decide

for themselves on the right form of action in the dynamics of the network society.

There is also the issue of good professional skills. The key to this is professional knowledge. Such knowledge is essential to maintain a high performance level and to be able to anticipate the many changes occurring inside and outside government. The core of good performance remains unchanged: a good civil servant realises that he or she is working in exceptional circumstances. A civil servant serves democracy, imposing high demands on integrity.

Integrity is a topic that became current in the Netherlands 20 years ago and has lost none of its relevance as a theme since then. Integrity has acquired a permanent place on our administrative agenda. It has won a top-of-mind position.

In 2016, the Netherlands will take advantage of its EU presidency to continue to highlight the importance of good governance in Europe, with integrity, at all administrative levels.

I highly recommend this book to you. It provides excellent insight into how the Dutch government is organised.

The Minister of the Interior and
Kingdom Relations,

Ronald Plasterk

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Introduction

BY JAAP UIJLENBROEK

In recent years, the Netherlands has been celebrating 200 years of the Kingdom of the Netherlands. This did not involve an anniversary in a single year or on a single day. The Kingdom of the Netherlands was created in the period between 1813 and 1815, at the end of the Napoleonic era, culminating in the investiture of the first Dutch King, William I, in Brussels on 21 September 1815. During that time, the foundations were laid for the Dutch administration as we know it today: a constitutional monarchy. Prior to that, from 1581 to 1801, the Netherlands was a republic.

The Netherlands has mostly been governed from the Binnenhof, the government complex in The Hague, whose oldest parts date back to the mid 13th century. This is the seat of the Dutch Parliament, consisting of the Senate, with 75 members, and the House of Representatives, with 150 members. The Prime Minister, who presides over the Council of Ministers and heads the Ministry of General Affairs, also has his office at the Binnenhof, in the 'tower'. Finally the Council of State, the most senior government advisory body, meets at the Binnenhof.

All 11 Ministries which together form the country's central government are housed in the immediate vicinity of the Binnenhof. At regional level, there are 12 provincial authorities with 393 municipal authorities at local level. Furthermore, the Netherlands still has the unique functional administrative tier of the water authorities, which are responsible for water management in a region. The water authorities are the oldest administrative

bodies in the Netherlands, dating back to the 13th century. As a result of mergers, there are now only 24 water authorities. The Dutch government also has independent administrative bodies (NDPBs) and various specific services and institutions.

The Dutch government has a wide variety of organisational forms, with government authorities also forming many different alliances, such as the alliance between municipal authorities in common regulations, in which primarily operational duties have been regulated.

A distinguishing feature of the Netherlands is that many matters are regulated in the 'semi-public sector', the transitional area between public and private services. In the field of education, for example, besides state schools which employ civil servants, there are also schools which are equated with the state schools but which do not employ civil servants. The healthcare sector is financed with public funds to a significant extent, but the institutions that provide the

actual care are primarily private organisations so the employees are not civil servants.

The diversity of organisational forms in Dutch public service and institutions in the semi-public sector means that the civil service is fragmented. There is a single umbrella Civil Servants Act, but each sector, such as municipal authorities and primary education, elaborates this in more detail, including different terms of employment. Negotiations on employment conditions are therefore organised by sector.

Dutch public service as a whole does not have a uniform definition. As such, it is difficult to make general statements and makes any delineation arbitrary. In this publication, the delineation has been chosen in which public service consists of the four administrative tiers of central government (including NDPBs and operational services), the provincial authorities, the municipal authorities and the water authorities, together with

the education and defence sectors, the judiciary and the police force. This involves a total of just under 1 million employees with the status of civil servants. In order to put this into perspective: the Netherlands has a population of nearly 17 million and a labour force (aged 15 to 75) of about 8.2 million. The healthcare sector has not been included in this publication, because it is primarily organised privately.

This publication starts with the fundamental system of government in the Netherlands, on the basis of three features: (1) the constitutional monarchy, (2) the status as a state under the rule of law and a parliamentary democracy and (3) the relationship between the tiers of government: the decentralised unified state. The organisational structure of the government is then discussed, briefly describing the different echelons. The number of civil servants in these echelons first saw strong growth and later diminished as a result of a targeted policy of privatising government tasks. This is discussed in Chapter 4. The legal position of Dutch civil servants has traditionally been regulated in the Civil Servants Act and developed in subordinate regulations. A genuine platform for talks on terms of employment has only existed since the 1990^s, after which a process of negotiations on employment terms began. Chapters 5 and 6 discuss this in more detail and Chapter 7 shows the outcome in terms of wage developments in comparison with the market and with the healthcare sector. The civil service slightly lags behind these sectors. The relationship between the police and the civil service in the Netherlands is characterised by interdependence,

in which politicians and civil servants naturally have their own role. The subtitle of Chapter 8 makes this very clear: cycling in tandem, with politicians steering and civil servants pedalling and moving with them. The ninth and final chapter discusses current developments in the public sector: the increasing interrelationships between government authorities, decentralisation, the continuing ambition to reduce the size of central government and improve its effectiveness, and digitisation of government activities. The 'digital government' offers opportunities to provide better services to the public, a more efficient government organisation and more potential for the private sector.

This publication thus provides a quick and comprehensive overview of public service in the Netherlands, how it is organised and the relevant issues.





2

The System of Government of the Netherlands

BY MEINE KLIJNSMA

2

The System of Government of the Netherlands

BY MEINE KLIJNSMA

The Dutch system of government can be summarised in three short statements: ‘The Netherlands is a constitutional monarchy’, ‘The Netherlands is a state under the rule of law and a parliamentary democracy’ and ‘The Netherlands is a decentralised unified state’. These three statements have been elaborated on in this chapter.

2.1

The Netherlands is a constitutional monarchy

1814/1815: the new monarchy

In 1814 the Netherlands became a monarchy, with a member of the House of Orange on the throne. The son of the last ousted ‘stadhouder’ (regent) Willem V became the sovereign prince as Willem I and, a year later, King of the Netherlands. In 1806 Lodewijk Napoleon became King of the French satellite state, the Kingdom of Holland, while in 1810 our country was captured by the powerful French empire. The monarchic form of state was therefore not entirely new. However, in the preceding centuries, from national independence in 1581, the Netherlands had always been a republic: first the federative Republic of the United Netherlands and from 1795 the far more democratic and more centralist Batavian Republic. The focal point of power in the new kingdom clearly lay with the King. Not

only did the new Constitution assign a great deal of formal power to the sovereign, but he made enthusiastic use of it, tipping the balance even more in his favour. A constitutional monarchy could justifiably be said to exist.

The velvet revolution of 1848

The wave of revolution of 1848 did not leave the country, which at the time had lagged somewhat behind, completely untouched either. The successor of King Willem I, Willem II, declared himself to have switched from being extremely conservative to being extremely liberal overnight. The Leiden professor Thorbecke became chairman of a state committee which drew up a new Constitution with unprecedented speed, which then appeared equally rapidly in the Bulletin of Acts, Orders and Decrees.

The Dutch velvet revolution was complete. At a single stroke, our system of government thereby acquired the contours that it still has today. From that time on, the House of Representatives, the Provincial Executive and the municipal councils were elected through direct elections, albeit still far from on the basis of universal suffrage. Ministerial responsibility, linked to royal inviolability, was introduced, while the catalogue of constitutional rights was expanded to include freedom of speech and expression in print and the freedom of association and assembly. As a result of all this, the focus of power shifted from the King to the Ministers and Parliament.

When the parliamentary system was finally established in 1868, the position of the King had in essence been reduced to a symbolic one. The monarchy had consequently become a primarily ceremonial role.

The power of the King

Today, the King still has the following formal tasks and powers:

- He is part of the government, although the Ministers and State Secretaries bear the political responsibility; the King, after all, is inviolable.
- As a result, the King must sign Acts and Royal Decrees.
- The King is the chairman of the Council of State. However, the vice-chairman (the 'vice-president') acts as the actual chairman.
- Each year on the third Tuesday in September, the King presents the policy to be pursued by the government to a joint meeting of the Senate and the House of Representatives.
- The King conducts talks with the Prime Minister every week and with the other Ministers on a regular basis.

Until 2012 the King also played an important role in the formation of the government. However, this role has now been taken over by the House of Representatives. In the formation of the government in 2012, the House of Representatives directed the formation of the government itself for the first time, including the appointment of the 'formateur'.

The King exercises his formal powers as the inviolable head of state. This means that the Ministers bear responsibility for this. It does not mean that the King cannot have any influence on the implementation of policy. However, this influence extends only as far as the Ministers permit. The constitutional system assumes that any differences of opinion between the King and the Cabinet will be solved in confidence, with Ministers then bearing the full political responsibility for this. If no solution is reached, a constitutional crisis arises.

The King also plays an important ceremonial and unifying role, for example on the commemoration of

disasters such as the crash of MH17 and other major events, as well as in state visits.

Government and Cabinet

The government consists of the King and the Ministers, the Cabinet only of the Ministers. The Ministers jointly form the Council of Ministers, which meets weekly on Fridays. The King and the Ministers can also meet for joint political talks. These meetings are known, somewhat confusingly, as the Cabinet Council. The last Cabinet Council meeting was held in 1905.

Since 1848 the political focal point of the government has unmistakably lain with the Ministers. Since 1948 it has also been possible to appoint State Secretaries. There are two types of Ministers: Ministers with a portfolio, who also head a Ministerial department and have their own budget chapter (the 'Ministers of', such as the Minister of Defence) and Ministers without portfolio, who are responsible for a specific task (the 'Ministers for', such as the Minister for Housing and the Central Government Sector). Both types of Ministers are members of the Council of Ministers.

The Council of Ministers is the most important forum for the establishment of government policy. The permanent chairman is the Prime Minister, who is also the Minister of General Affairs. At the end of the meeting of the Council of Ministers, the Prime Minister holds a press conference at the Nieuwspoort press centre, an important publicity event. In addition to the Council of Ministers, a number of Committees, such as the Administration and Justice Committee (RBJ), in which only a few Ministers participate, prepare the meetings of the Council of Ministers. The meetings of the Council of Ministers and the Committees are prepared in 'official lobbies'.

This all shows that considerable importance is attached to good coordination, in order to actually facilitate the unity of government policy. This unity of government policy is an important principle of the Dutch system of government. Ministers and State Secretaries should speak with one voice. If a Minister or State Secretary has serious objections to one or more elements of government policy and is not willing to set these aside, only one option remains: voluntary resignation.

Cabinet formation

In principle, the sessions of a Cabinet coincide with those of the House of Representatives. Prior to the regular parliamentary elections, the Cabinet must hand in its resignation to the King and becomes a caretaker government. If a Cabinet falls earlier, parliamentary elections are usually brought forward. The formation of a new Cabinet begins immediately after the parliamentary elections.

Because of the strict proportional voting system in our country, no single party has ever won an absolute majority in the House of Representatives. At least two parties are therefore always needed in order to form a majority coalition. This usually leads to complicated and lengthy negotiations.

As already mentioned, until 2012 the King acted as playmaker in the Cabinet formation process: he appointed the 'informateur' and then the 'formateur', after consulting the chairmen of the parliamentary parties and, among others, the Vice-President of the Council of State. At the end of the formation, the new Prime Minister accounted to the House of Representatives on the formation process.

On the formation of the second Rutte government, the House of Representatives itself took over this role

from the monarch. The Rules of Procedure of the House of Representatives were changed for this purpose. These amended Rules of Procedure are expected to be maintained.

The Constitution

Until deep into the 19th Century, the main function of the Constitution was to contain the power of the King and to steer it on the right track; this was even the *raison d'être* of Thorbecke's constitutional reform of 1848. Other than in an absolute monarchy, in a constitutional monarchy the power of the monarch was limited by the Constitution. This logic still determines the constitutional anchoring of the Dutch system of government, including after the last integral constitutional amendment of 1983. This fact means that in some respects, the Dutch Constitution does not meet contemporary political and social requirements. In other words, with the exception of the chapter on constitutional rights, which was thoroughly modernised in 1983, our country has a Constitution with many outdated provisions and superfluously detailed regulations (for example concerning the royal succession) and at the same time, a fair number of gaps: important government principles such as the confidence rule (discussed in more detail below) are not laid down in the Constitution.

Although the main constitutional rights and many important rules concerning the system of government are anchored in the Constitution and lower laws and regulations must comply with the Constitution, in the Netherlands, in contrast to e.g. the U.S.A. and Germany,

the Constitution is not a document that truly has relevance in the mind of the public. This lack of *Verfassungspatriotismus* in the Low Countries by the sea is sometimes linked to the lack of the right to test for compatibility with the Constitution: the courts may not test formal Acts against the Constitution. In most modern democracies this is possible and benefits the authority and thereby the social relevance of the Constitution.

It is also difficult to keep the Constitution up to date, because the procedure for reform is weighty and protracted. Proposals to reform the Constitution must pass through two readings: they must first be adopted by the House of Representatives and the Senate by an ordinary majority and both Houses of Parliament must then adopt them once again, after elections for the House of Representatives, but by a qualified two-thirds majority.

2.2

The Netherlands is a state under the rule of law and a parliamentary democracy

State under the rule of law

The Netherlands is a state under the rule of law. This means that the government's power is regulated and limited by law. The concept of the state under the rule of law arose as a reaction to the absolutism of the 17th and 18th centuries. In that sense, the concept of the state under the rule of law is consistent with that of the constitutional monarchy.

Important elements of the state under the rule of law are:

- the existence of a constitution (the Constitution, the Charter for the Kingdom of the Netherlands, certain treaties and laws prescribed by the Constitution, the 'organic' laws, such as the Municipalities Act and the Provinces Act) and unwritten constitutional law, such as the confidence rule;
- the existence of constitutional rights, such as freedom of speech and the freedom of association and assembly;
- the segregation of powers, including the guaranteed independence of the judiciary;
- the legality principle, the notion that all government action must be based on general rules of law and that the government itself is bound by the law;
- the prior rule of law, which means that new laws with adverse effects for citizens cannot be applied retroactively.

Dutch administration of justice is primarily organised into 11 District Courts. Appeals can be filed to four Courts of Appeal. The Supreme Court is the highest court for matters relating to criminal law, civil law and tax law. There are also specialised highest courts: the Central Appeals Court (for matters concerning civil servants and social insurance), the Regulatory Industrial

Organisation Appeals Court (social and economic administrative law) and the Administrative Law Section of the Council of State (other administrative law).

The power of the people

Only with the introduction of universal suffrage in 1919 did the Netherlands become a fully fledged parliamentary democracy. The parliamentary system was introduced earlier, in 1868, not by means of an amendment of the Constitution, but as a result of a deep conflict between a Liberal majority in the House of Representatives and a Conservative Cabinet, which was actively steered by King Willem III. The parliamentary system means that a Cabinet that loses the confidence of the House of Representatives must resign. The parliamentary system implies the 'rule of confidence'. This rule also applies for individual Ministers and State Secretaries.

However, it cannot be concluded from the fact that the House of Representatives has the last word in its relations with the government that Parliament is formally the highest organ of state. Equally, it is not the case that the Dutch system of government is based on the principle of sovereignty of the people, a conclusion that might be drawn from the combination of the parliamentary system and universal suffrage. Unlike the German Constitution, for example, the Dutch Constitution does not include a provision to that effect.

The influence of the public on the administration is primarily shaped along the lines of representative democracy, i.e. through elections for the House of Representatives, the Provincial Council,

municipal councils and water authority councils. However, representative democracy is supplemented with a number of direct democratic elements. For example, citizens can initiate a non-binding corrective referendum at the national level. Some municipal and provincial authorities also have this type of referendum. In addition, citizens may place matters on the agenda of the House of Representatives, via the 'citizen's initiative'. Again, some municipal and provincial councils also have rules on the citizen's initiative.

Last but not least, there is a tradition in the Netherlands dating back several decades on the level of public participation in policy development at all administrative levels. Citizens have a voice in and may contribute ideas for the development of new policy. These often fairly deliberative forms of public participation are consistent with a far older and typically Dutch tradition of consensual democracy, also known as the 'polder model'. The polder model means that government authorities consult organised interest groups in order to win their support for policy. In the past this primarily concerned social and economic policy, while today this model is applied far more broadly. Sometimes separate consultative bodies are instituted in the interests of consultative democracy, such as the Social and Economic Council of the Netherlands (SER), in which trade union federations and employers' organisations are represented.

The House of Representatives in more depth

The House of Representatives has 150 members who are elected for four years by all citizens entitled to vote. There is no

obligation to vote. The Netherlands has a strict proportional representation election system based on lists. The electoral threshold is low: a single full seat suffices for entry into Parliament. This has meant that since 1945, at least seven parties have always been represented in the House of Representatives and sometimes many more. After the last parliamentary elections in 2012, the House of Representatives held 11 parliamentary parties. As a result of splits, this rose to no less than 16 by mid-2015!

The main tasks of the House of Representatives are to monitor the government's pursuit of its policy, to determine the budget (the budget right), draft legislation (together with the government) and to draw attention to social issues (the agenda function).

The House of Representatives has a large number of formal powers. It may propose amendments to Bills (the right of amendment), submit Bills itself (the right of initiative) and put oral and written questions to Ministers and State Secretaries, it has the right to conduct inquiries and lighter forms of investigation and the right of interpellation (putting further oral questions to and debating with one or more Ministers and/or State Secretaries).

It is extremely important here that all these rights are exercised in the context of the parliamentary system. This system not only implies the confidence rule, as already noted, but also the active obligation of the Cabinet to inform the House of Representatives. This means that the Cabinet must provide the House of Representatives with all the information that it needs in order to be able to perform its monitoring task.

The Senate in more depth

The Netherlands is one of the few smaller, non-federal states with a system of two houses of parliament. In addition to the directly elected House of Representatives, there is also a Senate. Unlike many other senates, the Dutch Senate has a right of veto with regard to Bills. It follows from this that in order to be enacted, draft legislation must not only win a majority in the House of Representatives, but also in the Senate. Under the Rutte II Cabinet, this is not the case, which has led to accords being reached with a number of opposition parties on certain matters. This is a new development which (among other things) has led to a revival of the debate on the position and even the (continued) existence of the Senate. However, no concrete proposals have (yet) been submitted on this level.

The Senate has 75 members, who are elected for a four-year term by the members of the Provincial Councils. Elections for the Senate take place some weeks after the regular elections for the Provincial Councils. Because the elections for the Provincial Councils are usually held on a different date from the elections for the House of Representatives, the political composition of the Senate often differs quite considerably from that of the House of Representatives.

The Senate has the same powers as the House of Representatives, with the exception of the right of amendment and the right of initiative. However, through the 'novelle' (a proposed amendment of a Bill that has already passed the House of Representatives), the Senate can indeed force changes to Bills. The government incorporates the amendment required by the Senate in a new bill, which then begins its passage through Parliament and ultimately is put to the vote in the Senate, together with the original Bill, the handling of which has been suspended.

It is not clear whether the confidence rule also applies for the Senate. The fact is that a Minister, and also the Cabinet itself, has only invoked the confidence rule once in order to force a majority in favour of their own Bill. However, the confidence issue is raised far more often in the Cabinet's dealings with the House of Representatives.

Legislation

A great deal of government policy is given shape in the form of formal legislation. Bills can be submitted by the government and by the House of Representatives. Most Bills are submitted by the government. An important part of the legislative process is the mandatory advice by the Advisory Section of the Council of State. Following the advice by the Advisory Section of the Council of State, the relevant Bill, together with a response to this advice, the 'further report', is sent to the House of Representatives, which usually debates the Bill in two rounds. It first submits a written commentary (the report), to which a response is given in a memorandum on the report. This is followed by a plenary (oral) debate in the House of Representatives. Voting first takes place on submitted change proposals or amendments; the final vote

then takes place on the amended or unchanged Bill.

If the House of Representatives adopts the Bill, it is submitted to the Senate. The Senate also first provides a written commentary and then debates the Bill in a plenary session, at which voting then also takes place. If the Senate also adopts the Bill, it is signed by the King and the Minister responsible. The Bill then becomes law. Finally, the text of the Act is officially published in the Bulletin of Acts, Orders and Decrees and the Act can enter into force. Bills submitted by Members ('Private Members' Bills) must be signed by the government before they can enter into force. The government may refuse to do so. However, this is not customary; the last time that this right of veto was exercised was in 1928.

2.3

The Netherlands is a decentralised unified state

The essence of the decentralised unified state

The Netherlands has three territorial tiers of government: the central government, the 12 provincial authorities, and 393 municipal authorities. There are also the three special public bodies in the Caribbean Dutch territories – Bonaire, St. Eustatius and Saba – which, in terms of administrative organisation, show close similarities to municipal authorities, but are not formally such. Furthermore, the three islands are not divided into provinces. As a result of an ongoing process of municipal reorganisation, the number of municipal authorities has fallen from about 1,200 in 1850 to less than 400 today. However, many municipal authorities are still too small to perform certain tasks. In order to address this problem, municipal authorities can work together with other municipal authorities under joint regulations, known as the ‘extended local structure’. These aid structures have no directly elected management of their own.

The relationship of the Dutch central government and the two decentralised administrative tiers lies somewhere in between a centralist model (as in France) and a federal model (as in Germany and Belgium). This intermediate model is known as a decentralised unified state. Unlike in the federal states, the package of tasks of the decentralised administrative tiers is not explicitly laid down in the Constitution, and in contrast to the explicitly centralised model, the two decentralised administrative tiers have their own rules and regulations.

Autonomy and co-administration

Dutch municipal and provincial authorities are autonomous, with their own rules and regulations. This means that they are free to execute tasks, develop policy for this, and to impose rules. This autonomous policy scope is limited by an upper and a lower limit. The upper limit is formed by the laws and regulations of higher tiers of government, normally the central government, on the same subject, and the lower limit by the constitutional rights of the citizens. Today, autonomous tasks account for about 10% of the municipal package of tasks. These tasks primarily concern matters such as culture, sport, recreation and maintenance of public spaces, as well as more controversial matters, such as the treatment of asylum seekers who have exhausted their legal recourse.

Co-administrative tasks account for the other 90% of the municipal package of tasks. Co-administration means that the government assigns the execution of a particular task to a municipal or provincial authority by means of an Act (a co-administration Act). The degree of policy freedom here can vary. Parts of social insurance, youth care, spatial planning and public housing are examples of co-administration tasks. As a result of a number of decentralisations in recent years, the municipal package of tasks has been expanded considerably.

The structure of municipal and provincial authorities

The municipal and provincial authorities are fully fledged democracies. They have a directly elected people’s representation: the municipal councils and the Provincial Councils. These councils are elected every four years. Early dissolution is only possible in specific cases and then only on the basis of specific legal

grounds. Municipal and provincial councils generally have the same powers as the House of Representatives. They can therefore justifiably be described as fully fledged decentralised parliaments.

The municipal and provincial executives are referred to as ‘the municipal executive’ and ‘the provincial executive’ respectively. The members of the municipal and provincial executive are elected by the people’s representation in question and, where appropriate, for example in the case of a vote of no confidence, are dismissed by it. The Mayors (municipal authorities) and the Queen’s Commissioners (provincial authorities) are also members of the executive. Mayors and Queen’s Commissioners chair both ‘their’ executives and ‘their’ people’s representation. They are appointed by the Crown (the Cabinet and the King) on the nomination of the relevant municipal or provincial council. These nominations need not be accepted, but this has never happened.

Water authorities

In addition to the municipal and provincial authorities, the Netherlands also has a third category of decentralised government: the water authorities. However, the water authorities have a limited package of tasks regulated by law: protection against water (including by means of dikes), regulation of water management and the treatment of waste water.

There are 24 water authorities (in 1950 there were still more than 2,600), each with their own directly elected councils.



FRIESLAND

IJsselmeer

FLEVOLAND

GELDERLAND

BRABANT

NOORD-TILBURG

EINDHOVEN

ARNHEM

NIJMEGEN

OSS

DEURNE

VENRAY

VENLO

TOESSEN

HELMOND

DEURNE

VENRAY

VENLO

TOESSEN



3

The Structure of the Dutch Government

BY FRANK VAN KUIK, VNG, MATTHIJS KOK,
MAARTEN SUWOUT, MARIJKE STROUCKEN, JOOP POT
& FRANK CÖRVERS

3

The Structure of the Dutch Government

As a basic structure, the Dutch government has three administrative tiers: municipal authorities as local government, the provincial authorities as regional government and the central government as the national government. The Netherlands also has a functional administrative tier, the water authorities, a democratically organised administrative tier with a specific assignment: to provide for good water management in the Netherlands. In addition, the 'night watchman' functions are distinguished: defence, the police and the judiciary. The Ministry of Defence provides for national security. Given the individual features of defence, it is sometimes regarded as part of the central government and sometimes not. For example, the Defence department has its own collective employment conditions, while all other Ministries have a single agreement for collective employment conditions.

Since 2013 the Netherlands has had a single national police force. Before this it had regional police forces. The national police force is a separate organisational unit of the Ministry of Security and Justice.

The judiciary in the Netherlands is organised independently of the political system. It is funded via the Ministry of Security and Justice.

Education in the Netherlands has traditionally been organised along denominational lines: public and denominational education. Public education is maintained by the municipal authorities. Denominational education is organised on the basis of (religious or other) faiths, but is publicly financed on the same basis as public education. However, there is also genuinely private education.

Healthcare falls beyond the scope of this publication. In the Netherlands healthcare is financed partly by public and partly by private funding. The operational organisations in the healthcare domain in the Netherlands are almost always private organisations (with the exception of the teaching hospitals).

3.1

Central government

BY FRANK VAN KUIK

Chapter 2 provides a description of the administrative structure of the Netherlands, as laid down in the Constitution. The Netherlands is a decentralised unified state. The three administrative tiers – central government, the provincial authorities and the municipal authorities – jointly perform the government tasks. The decentralised character of the government means that, in principle, matters are represented by the administrative body closest to the citizens. Since the end of the last century, the central government has been trying to decentralise tasks to the other tiers of government, in particular to the municipal authorities. In 1990 the assignment of the Minister of the Interior to facilitate the decentralisation to the municipal authorities was also laid down in Article 117 of the Municipalities Act. In this system it is the task of the central government to provide for a degree of unity of policy throughout the country. This is reflected in the hierarchy between the administrative tiers: central government sets the limits to the freedom of the other administrative tiers and can assign the execution of certain tasks to these administrative tiers.

The central government, the 12 provincial authorities and the 393 municipal authorities (as of 1 January 2015; on 1 January 2000 the Netherlands still had 537 municipal authorities) decide for themselves which tasks they address within their own territories and the limits

of higher regulations. The government's package of tasks changes continually as a result of changing social conditions. Central government, the provincial authorities and the municipal authorities are free to take policy initiatives, which enables them to take up new tasks and discontinue others. In addition to these general administration organisations, the Netherlands also has government organisations with more closely defined assigned tasks. The 24 water authorities, which, together with central government, are responsible for water management in the Netherlands, form a well-known example. The central government has NDPBs with a defined package of tasks.

Ministers, State Secretaries, Council of Ministers

At the central government level, the Ministries form the central organisation. The Constitution regulates the institution of Ministries. This takes place by Royal Decree, pursuant to Article 45 of the Constitution. Each Ministry is headed by a Minister. The Minister directs the Ministry. Among other things, this means that the Minister appoints or dismisses the civil servants who work at the Ministry. Ministers can also be appointed who are not responsible for directing a Ministry, known as the Ministers 'without portfolio'. They make use of the civil service support of the Minister who directs the Ministry. Both types of

Ministers are members of the Council of Ministers. In the present Cabinet, two Ministers without portfolio have been appointed: a Minister for Foreign Trade and Development Cooperation and a Minister for Housing and the Central Government Sector.

On the basis of the Government Accounts Act, which was amended in this regard some years ago, both types of Ministers can have their own budget chapter. The term 'Minister without portfolio' consequently no longer relates to the lack of a budget chapter, but only to the lack of a civil service organisation of their own and the accompanying support facilities. The 'Minister for' lives in, as it were, at the Ministry of the 'Minister of'. To give an example: the Minister of Interior and Kingdom Relations (BZK) heads the Ministry of the same name. He is the political boss of the civil servants employed there. The Minister for Housing and the Central Government Sector is supported by some of these civil servants and makes use of the policy support and operations of the Ministry of BZK. Both Ministers have their own budget chapter.

State Secretaries may be appointed by Royal Decree, pursuant to Article 46 of the Constitution. These have their own political responsibility for the policy field entrusted to them by the Minister. This division of responsibilities between Ministers and State Secretaries is often determined during the formation of a

Cabinet and is then recorded in a description of tasks. A State Secretary accounts to Parliament independently. Parliament may adopt a vote of no confidence in a State Secretary, after which he or she will have to resign. The Minister can then remain in office. If Parliament loses confidence in the Minister, the State Secretary makes his or her portfolio available. The new Minister may then ask him or her to accept his or her position again.

Together, the Ministers form the Council of Ministers, which normally meets every Friday to take decisions on government policy. The meetings of the Council of Ministers are chaired by the Prime Minister. The working method of the Council of Ministers has been laid down in Rules of Procedure. Among other things, these state which matters must be handled in the Council of Ministers and how decision-making is prepared. Unlike in countries such as France, Germany or the UK, the Prime Minister is *primus inter pares*, the first among equals. He or she holds final responsibility for the general government policy, but the Ministers remain responsible for their own policy fields. The position of the Prime Minister grew during the 20th Century. Agenda powers and a more central position in relation to European affairs were added.

The decision-making in the Council of Ministers is prepared at the political level in a number of Committees of the Council of Ministers. The Ministers and State Secretaries may be accompanied in these Committees by their senior official advisers. Apart from the Council of Ministers, the Prime Minister also chairs these Committees and, in this way, can play his or her role of monitoring the unity of government policy. The decision-making in the Committees is, in turn, prepared by interdepartmental official committees, the 'official lobbies'. In general, handling proposals in such a body is preceded by a period of official preparation and coordination in the first Ministry responsible.

The Ministries in The Hague

The experts in the various policy fields work at the Ministries in The Hague. They coordinate the proposals of the Ministers within the Ministry, for example with the Financial and Economic Affairs Directorate, if a proposal will involve financial consequences, and with other Ministries that are (or could be) involved in a matter. This interdepartmental coordination and cooperation is becoming increasingly important, because problems that call for a solution care little about the boundaries or divisions into Ministries.

In politics and the media, attention to the government focuses on these Ministries in The Hague, which support the Ministers and State Secretaries in the preparation of policy. An important task of the civil servants at the Ministries is the day-to-day support of the Minister or State Secretary in appearances in Parliament, answering questions to the House of Representatives, and the preparation of laws and policy proposals. Nevertheless, only a small part of the civil service machinery is responsible for these policy functions. Most central government civil servants perform operational tasks, such as at the Tax and Customs Administration, the Department of Transport and Public Works or the Judicial Institutions Service. Other civil servants work in supervision, such as at the new Dutch Food and Consumer Product Safety Authority, or in support processes such as human resources, accommodation or procurement.

In 2014 the Ministries employed about 109,500 FTEs, compared with about 114,500 in 2010. At the central government level, more than 100 non-departmental public bodies (NDPBs) with defined assigned tasks operate in addition to the Ministries. These organisations are part of the central government, but have their own packages of tasks. A well-known example is the Social Insurance Bank, which pays benefits to senior

citizens and administers child allowances. Other examples are the Land Registry, the Dutch Vehicle and Driving Licence Registration Authority (RDW) and the Employee Insurance Agency. NDPBs perform operational tasks that are assigned to them by law. They are of major importance to citizens, who receive matters such as benefits, vehicle registration documents and land registry details from them. Nevertheless, the politically responsible Ministers are only authorised to direct these organisations to the extent provided for in law. NDPBs consequently operate at a certain arm's length from the Ministries. With some regularity, this fact gives rise to discussions about the desirability of this construction in individual cases. In recent years the Framework Act on Independent Administrative Bodies has laid down general rules on the institution, steering and accounting for organisations of this kind. It is government policy to institute as few new NDPBs as possible. In recent decades a number of surveys of NDPBs have been conducted. A shift in the tasks of NDPBs to a Ministry took place at the Information Management Group, among others. This organisation provided student loans. This task is now performed by part of the Ministry of Education, Culture and Science: the Education Administrative Service (DUO). In 2014 the largest NDPBs in the Netherlands employed about 39,000 FTEs, compared with some 42,700 in 2010.

The number of Ministries and the size of the Cabinet

The number of Ministries is not fixed. The number has not been laid down in the Constitution since 1806. The 1798 Constitution still contained a provision fixing the number of members of the executive administration functioning at the time at five. The number of Ministries has grown in the course of time in line with the expansion of the government's tasks. The number of Ministries was largest in the second half of the 20th

Century, at the time of the development of the welfare state. At the time, there were 14. The number then remained stable at 13 for a long time, although regular shifts of tasks between the Ministries took place.

Recently, during the formation of the Rutte II Cabinet, the number was further reduced to 11. This coincided with a departmental reorganisation, in which some parts of Ministries were merged and others transferred. This reduction in the number of Ministers during the formation of the Rutte-II Cabinet was accompanied by a reduction in the number of State Secretaries to seven. Two Ministers without portfolio were also appointed. As a result, the size of the Rutte-II Cabinet is also very limited in international terms, to a total of 20 Ministers and State Secretaries. This is not uncontroversial. One possible disadvantage of this limited scale is that, in addition to an increase in the pressure of work for individual Ministers and Secretaries of State, some of the checks and balances for the consideration of interests could be lost with a smaller number of Ministries. For example, the assessment of road building in relation to the environment currently takes place within one Ministry, while animal welfare is represented by the Ministry of Economic Affairs. The attention for security is now largely concentrated in a single Ministry, while control over the police force was previously divided between the Ministry of Interior and Kingdom Relations and the Ministry of Justice.

The limited size of the current Cabinet can be seen as a realisation of efforts to reduce the official and administrative pressure associated with the involvement of larger numbers of people in political decision-making. By way of comparison, in 2000 the Kok-II Cabinet still had 13 Ministers who each headed a Ministry, two Ministers without portfolio, and 13 State Secretaries. This resulted in a total of 28 Ministers and State Secretaries, 40% more than at present.

Ministries in 2015

At present, the Netherlands has the following Ministries:

- Ministry of General Affairs (AZ)
- Ministry of the Interior and Kingdom Relations (BKZ)
- Ministry of Foreign Affairs (BuZa)
- Ministry of Defence (DEF)
- Ministry of Economic Affairs (EZ)
- Ministry of Finance (FIN)
- Ministry of Infrastructure and the Environment (I&M)
- Ministry of Education, Culture and Science (OCW)
- Ministry of Social Affairs and Employment (SZW)
- Ministry of Security and Justice (V&J)
- Ministry of Health, Welfare and Sport (VWS)

The limited size of the existing Cabinet is due partly to the fact that it consists of members of only two political parties, which jointly hold a majority in the House of Representatives. It can be assumed that with a coalition with a larger number of parties, the Cabinet will have more Ministers and State Secretaries; after all, it will then be necessary to do justice to the interrelationships between these parties, which could lead to the appointment of an extra Minister or State Secretary. With political relationships in which many parties are needed in order to realise a majority in Parliament, the limits of a further reduction in the number of Ministries or of Ministers and State Secretaries will be reached.

The structure of the Ministries

Ministries have a political and an official leadership. At each Ministry the most senior official, the Secretary General, holds official final responsibility for the policy and the management of the Ministry. This is regulated in a Royal Decree dating from 1988. Article 1 of this Royal Decree contains the following provision: 'Each Ministry shall have a

Secretary General who, in observance of the instructions of Our Minister responsible for the direction of the Ministry, is responsible for the official management of all matters concerning the Ministry.' This position brings together the roles of first advisor of the Minister, holder of final responsibility for the quality and cohesion of the policy and holder of final responsibility for the management.

At most Ministries, a deputy operates below the Secretary General. This position of Deputy Secretary General is not regulated by Royal Decree, nor is it filled in a uniform manner. However, in most cases the Deputy Secretary General is responsible for the management of the Ministry.

Under the Secretary General, the Ministries have one or more Directors General. These hold final responsibility for a defined area of policy, execution, supervision or operation. If the Minister or State Secretary primarily consults the Directors General, the Secretary General focuses primarily on the management of the Ministry and the coordination of policy. This partly depends on the preferences of the Minister or State

Secretary, the Secretary General's perception of his tasks and the agreements reached between the senior civil servants concerned, including the Directors General. A change of the guard at the political or senior civil service level can thus give rise to new emphases.

In practice, in addition to the political and official leadership, Ministries consist of an average of four to five Directorates General. Directorates General are divided into Directorates for a more limited field of policy. This structure is illustrated by the following simplified chart of the structure of the Ministry of Economic Affairs.

Minister of Economic Affairs

- [State Secretary of Economic Affairs](#)
- [Secretary General](#)
- [Deputy Secretary General](#)
- [Directorate General for Agro and Nature](#)
- [Directorate General for Energy, Telecommunications and Competition](#)
- [Directorate General for Enterprise and Innovation](#)
- [Inspectorate General, Dutch Food and Consumer Product Safety Authority](#)
- [Managing Director Internal Organisation and Operational Management](#)
- [State Supervision of Mines](#)
- [Netherlands Bureau for Economic Policy Analysis](#)
- [Authority for Consumers and Markets](#)

The positions at the Ministries are divided into salary grades in accordance with a uniform method, which has been laid down in the 'Functiegebouw Rijk' central government job description tool. The most senior civil servants (including the Secretaries General and the Directors General) are classed in Level 19. Heads of Directorates are usually classed in grade 16 or 17. The Functiegebouw Rijk contains a relatively limited number of standard jobs. This promotes the interchangeability of civil servants.

3.2

The Provincial Authorities

BY JAAP UIJLENBROEK

The Netherlands has 12 provincial authorities which employ a total of 9,000 civil servants (FTEs). Roughly speaking, the tasks of the provincial authorities cover:

- the spatial layout of the province (where can towns and villages expand and may industrial sites and office parks be built?);
- the building and maintenance of provincial roads, cycle paths and bridges;
- determining where roads, railways, shipping lanes, industrial sites, agricultural and nature reserves and recreational facilities may be located, via provincial structure plans. The provincial structure plans are a determining factor for the municipal zoning plans;
- responsibility for the building and maintenance of provincial roads, cycle paths and bridges;
- a number of specific environmental tasks concerning the provision of clean water and safe routes for trucks carrying hazardous substances. The provincial authority also supervises compliance with environmental laws concerning the air, soil and water and controls specific forms of contamination, for example through soil clean-up activities;
- ensuring that ambulances can reach every location in the province within 15 minutes;
- supervising the water authorities and the municipal authorities. The budgets and financial statements of the municipal authorities are subject to the annual approval of the provincial executive.

The provincial authorities are an autonomous tier of government. The highest provincial body is the democratically elected Provincial Council. (Direct elections for the members of the Provincial Council are held every four years. The members of the Provincial Councils elect the members of the (national) Senate.

The provincial executive prepares the decision-making of the Provincial Council and provides for the execution of the provincial tasks and the tasks that the provincial authority performs for the national government: the co-administration tasks. The members of the provincial executive are appointed (and, if necessary, dismissed) by the Provincial Council. The maximum term of office for members of the provincial executive is four years: the term of office of the Provincial Council. The Provincial Council determines the number of members of the provincial executive: a maximum of seven and a minimum of three. Members of the provincial executive may not be members of the elected Provincial Council.

The King's Commissioner is a member and chairman of the provincial executive. The King's Commissioner is also the chairman of the Provincial Council, but is not a member of it. The King's Commissioner is appointed by the Crown (the government) for a term of six years and represents the government in the provincial authority.

Provincial authorities are dependent on the national government for the largest part of their income: via the Provincial Fund, they receive part of the taxes that the central government collects. Roughly speaking, these are awarded in proportion to the size of the population, the surface area of the land and a number of other physical features (e.g. water surface area). In addition, the central government awards a number of specific allowances or target allowances for e.g. youth care, soil clean-up activities and public transport. The scope of the provincial authorities for taxation is small, amounting to less than 20% of the total budget. The main provincial taxation instrument is the provincial surcharge on vehicle tax. The provincial authority can also generate income through provincial charges for e.g. environmental licences. The total budget of the Provincial Fund for all provincial authorities combined amounts to about €2 billion from 2016, one third of which is for general awards and two thirds for specific awards.

3.3

The Municipal Authorities

BY THE ASSOCIATION OF DUTCH MUNICIPALITIES, VNG

As of 1 January 2015, the Netherlands has 393 municipal authorities, which employ about 160,000 civil servants.

Municipal authorities perform many different tasks. The municipal authority:

- keeps track who lives in the municipality; this takes place in the Personal Records Database (BRP);
- issues official documents such as passports or identity cards and driving licences;
- pays benefits to residents who cannot provide for their own cost of living;
- is responsible for implementation of the Social Support Act (WMO), youth care and labour participation;
- is responsible for the accommodation of schools and pays for pupils requiring extra assistance;
- prepares zoning plans; these state which areas are zoned for housing, which for natural areas and which for businesses;
- supervises housing construction and reaches agreements on this with housing corporations;
- builds streets, roads, footpaths and cycle paths and provides for their maintenance;
- implements the Environmental Management Act, which, among other things, regulates separated collection of domestic refuse;
- awards subsidies, for example to swimming pools or libraries;
- ensures good access to industrial sites and issues licences for markets.

The municipality is governed by the municipal council. The council members are elected directly every four years by the residents of the municipality. The municipal executive prepares the decision-making of the Municipal Council and provides for the execution of the municipal tasks and the tasks that the municipal authority performs for the central government. The municipal executive consists of a Mayor and Aldermen. The Municipal Council nominates the Mayor to the King's Commissioner and appoints the Mayor for a term of six years. The Municipal Council also appoints and dismisses the Aldermen. The number of Aldermen depends on the population of the municipality and is subject to a statutory maximum limit. The Mayor is a member and chairman of the municipal executive and also chairs the Municipal Council. The Mayor is also responsible for public order and security. To that end, he/she forms part of a triangle with the public prosecutor and the Department of Public Prosecutions. This is an increasingly important role, in which the Mayor must switch between his/her roles as Mayor and holder of responsibility for security. The executive is supported in its tasks by the official organisation headed by the municipal secretary. The Municipal Council receives support from the registry, headed by the registrar.

The municipal authority operates at the interface between society and the policy of the national government. Because, as a government body, the municipal authority is closest to the residents, it is also assigned a growing number of tasks that call for a custom service. This happened, for example, with the recent decentralisation of youth care, the Social Support Act and labour participation tasks. As a result, the policy choices of the municipal authority have a growing impact on the lives of the residents. The scale of these tasks is so complex and extensive that a growing number of municipal authorities are working together in theme-based fields. This also takes place in the approach to economic development, which is primarily stimulated on a regional basis. With themes such as security and the radicalisation of young people, it is important to develop local policy in conjunction with national policy. In a world of rapid technological change, dilemmas arise, for example, between transparency, security and privacy that call for a government-wide approach.

With 229 council and committee members, the VNG, the association of all 393 municipal authorities, acts as a link in the governance structure between the national government and the municipal authorities, as a representative of and platform for its members.

3.4

The water authorities

BY MATTHIJS KOK

The water authorities are regional government bodies that are responsible for good regional and local water management. They protect us from flooding (two thirds of the country is vulnerable to flooding from the sea, lakes or rivers!), provide for sufficient high-quality water and treat waste water. This requires technology: the many dikes, dunes, dams, storm surge barriers, locks, pumping stations and water reservoirs provide maximum protection against flooding, water shortages or contaminated water at locations where this will cause damage.

The water authorities are the oldest administrative bodies in the Netherlands. The starting point of the water authorities was that many centuries ago, farmers in the low-lying polders addressed water management and flood protection together, by setting up a body to which each of them contributed (with labour or money), often chaired by the richest or smartest farmer. Some centuries ago there were thousands of independent water authorities, but at present there are only 24. The reason for mergers was the idea that larger organisations will be able to work more professionally and, consequently, more efficiently. The distance from the residents and businesses can increase as a result: the water authority is literally further away. The councils of the water authorities often consist of 30 members, two thirds of whom are elected by the residents of the management area, via a party system. The political parties take part in the elections, but there are also other separate parties formed especially for the water authority elec-

tions, such as the Nature Party. The remaining one third of the seats (the protected third) are available for interest groups. These members come from nature conservation organisations, agricultural and horticultural organisations such as LTO and the Chamber of Commerce. The councils elect the executives, apart from the chairman. The chairman of the executive is appointed by the government for a term of six years.

The activities of the water authorities cost money. The law provides that every water authority must fund its work by collecting its own taxes. All households contribute to this. Owners of buildings, agricultural land and nature reserves also make substantial contributions. The determining factors for the contribution of home owners, for example, is the value of the residential property and the number of occupants of the property. A household of more than one person with an owner-occupied home worth €200,000, for example, will pay tax of between €250 and €400 per year and an agrarian entrepreneur with 40 hectares of agricultural land and buildings worth €400,000 will pay between €2,000 and €3,500 in water authority charges each year. The costs depend on the area that the water authority serves, since the costs of water management in high-lying areas of the Netherlands are lower than those for low-lying areas. Other factors, such as the type of soil and the number of kilometers of water barriers, also contribute to the major differences between water authorities and their charges. In total, the water authorities will spend about €2.6 billion in 2015. Of this, 41% will be spent on building

and operating waste water treatment plants, 29% on the design and management of water systems (such as the water pumping stations) and 11% on building and managing water barriers. Collection of the taxes costs some 4% per year.

All four tiers of government in the Netherlands (central government, provincial authorities, municipal authorities and water authorities) levy taxes. Of all taxes paid, the central government levies 91%. The other 9% is referred to as local taxes. The water authorities charge about 20% of the local taxes. In recent years there has been shift in charges from the central government to the water authorities. Until some years ago, the central government paid for the large-scale reinforcements of water barriers, but recently the water authorities have been required to pay 50% of the costs of this programme. This increases the costs of the water authorities (and leads to a reduction in central government expenses).

3.5

Defence

BY MAARTEN SUWOUT

The Ministry of Defence serves Dutch security interests pursuant to Article 97 of the Constitution. The three main tasks of the armed forces are to:

- protect Dutch and allied territories, including the territories of the Kingdom in the Caribbean;
- promote the international rule of law and stability;
- support the civil authorities in law enforcement, control of disasters and provision of humanitarian aid, both nationally and internationally.

The armed forces consist of the following four services: the Royal Netherlands Navy, the Royal Netherlands Army, the Royal Netherlands Air Force and the Royal Netherlands Military Constabulary. The other Defence units are the Central Staff, the Command, the Support Command and the Defence Materiel Organisation. The Minister of Defence represents the Ministry of Defence in the political field, supported by the Chief of Defence. With this organisation, the Ministry of Defence performs its primary tasks. The Netherlands is also a member of NATO and has alliance obligations on those grounds.

The strategic functions of the Defence department are:

- Anticipation: being prepared for foreseen and unforeseen developments that could affect the interests of the Kingdom and the international rule of law.
- Prevention: acting within and outside the national borders to prevent threats to the interests of the Kingdom and the international rule of law.
- Deterrence: discouraging activities

that conflict with the interests of the Kingdom and the international rule of law by raising prospects for credible retaliatory measures.

- Protection: protecting and, if necessary, defending Dutch and allied territories and ensuring the security of Dutch citizens in the Netherlands and elsewhere and in registered properties in the Kingdom.
- Intervention: enforcing a change of conduct by actors who threaten the security interests of the Kingdom or the international rule of law.
- Stabilisation: assisting in the termination of a conflict and promoting stable political, economic and social development in a (former) conflict zone in the service of the interests of the Kingdom and the international rule of law.
- Normalisation: restoring acceptable living conditions after a conflict or a man-made or natural disaster.

There is no standard military deployment. It is the diversity of interests, strategic functions, types of missions, specific operational conditions and risks that determine which combination of capacities is required from a military point of view. Experience shows that modern missions require advanced equipment and well-trained personnel. Personnel are the most important capital of the armed forces. The ability of the armed forces to adjust to changes depends to a large degree on the knowledge and expertise of Defence department employees, citizens and military personnel. The fast-changing operational environment calls for flexibility and mental resilience. The

operational and political risks of operational deployment are high and the social requirements to protect the population and avoid collateral damage are demanding. The present composition of the armed forces reflects this awareness. In the future, too, the Netherlands will need strong, high quality and flexible armed forces, deployable at all levels of violence and for all strategic functions.

Defence personnel are deployed nationally and internationally. In 2014 the Defence department performed 1998 explosive disposal operations, 21 search and rescue operations at sea, 7 aircraft interceptions, and 224 patient flights in the Netherlands. About one third of the armed forces work on security within the national borders every day. Some recent international operations include the anti-piracy mission in the Gulf of Aden, the Multidimensional Integrated Stabilisation Mission in Mali (Minusma) and the police training mission in Afghanistan.

In the memorandum entitled 'In the interests of the Netherlands', the Minister calls for the Defence department to continue to aim for widely deployable armed forces, despite the budget cuts. Within the available budget, the Defence department opts for innovation and new investments. It also works more frequently with international partners and national civil authorities. In the coming years, partly in view of the international security situation, the Defence department aims to further improve the effectiveness of the armed forces.

3.6

The police force

BY MARIJKE STROUCKEN

The aim of the Dutch police force is to contribute to a secure society and the functioning of the state under the rule of law. Since 1 January 2013 the Netherlands has had a single police force which is directly answerable to the Minister of Security and Justice. For the formation of the single police force, the Netherlands had 25 regional police forces and a single force for national police services (KLPD), plus the Facility for Police Cooperation in the Netherlands, which mainly involved ICT cooperation. With the formation of a single national police force, all these units were absorbed into a single organisation operating on a national scale. The national police force has more than 60,000 employees and is divided into 10 regional units, which in turn are subdivided into districts. There is also a national unit that operates on a national level with supraregional and specialised police tasks, a Police Service Centre in which all operational units are bundled and a national Force Command.

The national police force is positioned within the Ministry of Security and Justice as an 'operational service' in the form of a legal entity *sui generis*. The budget is fixed annually by budget law. The Minister establishes the national policy objectives and the performance of the tasks of the police force. Mayors are responsible for public order within their municipalities. A national police force with national priorities, while Mayors are responsible for public order in the municipality, calls for good coordination of national objectives and local deployment of capacity. This coordination is given shape via the position of 'Regional Mayor', introduced for that purpose. The Regional Mayor is usually a Mayor of a major city in a regional unit who acts as the administrative point of contact for a police region, for the Minister and for the other Mayors in the police region. The Minister appoints the Regional Mayor for a term of four years, on the recommendation of the other Mayors in a region.

The Minister sets the national policy objectives after consulting the Board of Procurators General and the Regional Mayors. The share to be contributed by each region to the realisation of these policy goals is then also fixed. The Regional Mayors and the Chief Public Prosecutor determine the appropriate capacity allocations for this and record these in the regional policy plan.

The motto of the Dutch police is:

'The police protect democracy, enforce the law and are the authority on the streets. Where necessary, the police lend a helping hand. In emergency situations, they take enforcement action. Where others take a step back, police officers take a step forward, if necessary with use of force, and if necessary at risk of their own lives. The police work with citizens and partners actively. They have eyes and ears for what is happening in society. The police are there for everyone. Watchful and ready to serve.'

3.7

The judiciary

BY JOOP POT

The system of government in the Netherlands is based on the ideas of Montesquieu, the principle of which is that there must be a balance between the three branches of the state. To that end, the executive branch (enforcement of rules) and the legislative branch (creation of rules) are completed by the judiciary (settlement of conflicts). This is the *trias politica*.

This judiciary holds an independent position and judges are appointed for life. The Minister of Security and Justice holds responsibility for the system and is its financier.

The organisation of the judiciary in the Netherlands

The Supreme Court of the Netherlands is the highest court in the fields of civil, criminal and tax law. The Supreme Court is the court of cassation. The Minister determines the budget of the Supreme Court each year on the basis of the Supreme Court's budget and annual plan.

The Administrative Justice Section is the highest general administrative court in the country and is positioned with the Council of State.

The Council for the Judiciary is part of the judiciary, but does not administer justice. The Council is the umbrella administrative body of the judiciary. The Council promotes the interests of the judiciary to politicians, the media and the national administration. The Council for the Judiciary also holds budget responsibility: the Council provides funding for the courts. In a planning and control cycle between the Council and the individual

courts, administrative talks are conducted at least three times a year on the quantitative (including the budget take-up) and qualitative (throughput times, professionalisation and pressure of work) principles and agreements.

The Council for the Judiciary does this for 11 District Courts, four Courts of Appeal and two special tribunals: the Central Appeals Court and the Regulatory Industrial Organisation Appeals Court.

Some characteristics of the Dutch judiciary:

- The law courts are financed by the Council for the Judiciary (the Council holds budget responsibility), which in turn acquires the financial resources from the Minister.
- The law courts are funded primarily on a price times volume basis (output financing). The law courts are paid a price for each case settled. Prices are assigned to the different types of cases on the basis of the seriousness of the case. Each court receives the same price for cases of the same type.
- Together with the Department of Public Prosecutions, the judiciary has its own training institute.
- Confidence in the judiciary in relation to confidence in politics and the media is measured continually.
- The staffing of the primary process (the administration of justice) involves more women than men. More than 50% of the women work part-time, compared with about 20% of the men.
- The managers of the courts are appointed on the nomination of the Council for the Judiciary. For many years the judiciary has had a demotion regulation for managers who step down and then serve as judges again.

- In international comparisons, the Dutch judiciary ranks in the global top five on the basis of objectified criteria such as quality, throughput times, transparency and independence.

Funding and benchmarking of the judiciary

As the third branch of the state, the judiciary has a separate chapter in the budget of the Ministry of Security and Justice. The judiciary employs about 10,000 FTEs, including 2,500 judges. The total costs amount to about €1 billion, for which almost 2 million cases are settled each year.

The Council for the Judiciary has a number of tasks laid down in law: finances, supervision of operations, legal advice and quality promotion within the judiciary. About 95% of the budget for the judiciary is determined by means of output financing. The production-related contribution arises by multiplying the estimated production agreements by the accompany price (p times q). If production proves to have exceeded the budgeted amount after the event, an extra reimbursement of 70% of the price is made. If the output is below budget, a discount of 70% of the price is applied.

3.8

Education

BY FRANK CÖRVERS

According to Article 23 of the Constitution, education in the Netherlands is the responsibility of the government. The annual accounting to the House of Representatives provided for by the Article takes place on the basis of the Education Report of the Inspectorate of Education. Care for the accessibility and quality of education is generally regarded as one of the core tasks of the Dutch government.

The education sector forms part of the public sector, although both civil servants and 'ordinary' employees work in education. This feature of the education sector is a result of the freedom of education, which has also been laid down in Article 23 of the Constitution. Due to the freedom of education, there is both public and denominational education in the Netherlands. These are equated financially, which means that neither has any advantages over the other in terms of funding. The freedom of education was intended to do justice to all religions and faiths (Catholic, Calvinist, Protestant etc.) in the education system. This settled the 'School Struggle' in 1917. Over time, the different didactic movements (e.g. Montessori, Jena, Dalton) and religions that were 'new' to the Netherlands, such as Islam, have also made use of the freedom of education by setting up denominational schools.

Through the freedom of education, a relatively high density of schools arose in primary and secondary education, in both urban and rural areas. Through the decline in churchgoing and the erosion of pillarisation, de facto competition arose between schools of different denominations. The greater freedom of

choice for parents and pupils between different schools a relatively short distance away was an important stimulus that led schools to provide high-quality education. Dutch education has a good international reputation. The Dutch working population performs well in international comparative language and mathematics tests of the OECD. Dutch universities also score well in the international rankings, such as the *Times Higher Education World University Rankings*.

In public education, an employment contract follows appointment of the employee by the employer (unilateral, under public law); employment in denominational education arises through an employment contract between the employee and the employer (two-way agreement under private law). Although the points of departure for both employment contracts in education differ in principle, in practice there are few noticeable differences in the employment conditions. The main differences relate to the recruitment process and the way in which dismissal is regulated. However, this 'legal inequality' usually has little practical relevance. In case of dismissals, there can be substantial differences in the legal process and the determination of the severance pay. The education sector is one of the sectors in the sector model that was officially introduced in 1993 for the decentralisation of negotiations on employment conditions in the civil service (Minister of the Interior, 1996). In the later 'continued decentralisation', five educational sectors emerged, which are presented in Table 1. Through this continued decentralisation, the employer and the trade unions can negotiate on employment conditions

and the legal position in each sector. The government does determine the available budget, partly on the basis of political decision-making, but within the given financial framework, the various employers' organisations and trade unions can contract customised sectoral agreements on the primary employment conditions and fringe benefits.

The trade unions that are admitted to negotiations on employment conditions are determined on the basis of representativeness (Minister of the Interior and Kingdom Relations, 2008). There are various trade unions, which are partly organised along the old dividing lines of compartmentalisation, but also by differences in the professional groups and the sectors that they cover. Table 1 shows the different trade unions and employers' organisations in each educational sector that take part in the collective labour agreement (CLA) negotiations of the relevant educational sector, with the number of employees (including civil servants) to which the CLA contracted relates.

The limited practical relevance of the difference between the legal position of civil servants and employees in the education sector (teaching, educational support and management personnel) is shown partly by the publication of statistical data. As far as is known, no distinction is made anywhere in the national statistics between e.g. teachers employed in denominational or public schools. In the international statistics (e.g. those of the OECD), denominational education is sometimes (incorrectly) referred to or mixed with private education. However, private education

is distinct from denominational education, because it is not financed from public funds. In the outcomes of talks on employment conditions, no distinction is made between the civil servants in public education and employees in denominational education. The CLAs contracted under private law are declared generally binding for the entire sector and are also declared applicable to the civil servants employed in education under public law.

The statistics do make a distinction between participants (pupils and students) of the different denominations. In primary and secondary education, more than two thirds of the pupils are currently in denominational schools. In secondary education and higher professional education, there are almost no denominational educational institutes. There are a number of denominational universities of applied sciences, with teacher training courses on a Christian footing. Of the 14 universities in the Netherlands, including the Open University for distance learning, three are denominational institutions (University of Tilburg, University of Nijmegen and the Free University of Amsterdam). There are also four small religious universities providing denominational education (including in Kampen and Apeldoorn). This means that both official appointments (public education) and private-law employment contracts (denominational education) occur among schools in primary, secondary and higher education.

Furthermore, there is a 'green' vocational column in preparatory secondary vocational education (VMBO, part of secondary education), MBO and HBO, in which agricultural education (currently known as 'green' education) has traditionally been provided. This green vocational column consists of separate schools for VMBO, MBO and HBO and one university (Wageningen). These are not financed by the Ministry of Education, but by the Ministry of Economic Affairs (since this has merged with the Ministry of Agriculture).

There are also eight teaching hospitals (University Medical Centres, UMCs), which are closely related to the medical faculties of the universities concerned. Among other things, they have statutory tasks in the field of medical education and research, and are financed with public funds from the Ministry of Education, Culture and Science. The basic medical course is provided by the medical faculty and the hospital. However, patient care is funded by the Ministry of Health, Welfare and Sport (VWS) and the health insurers.

Sector	Employers' organisation	Trade Unions	Personnel in number of employees
Primary education (PE)	Primary Education Council	General Teaching Union Abvakabo FNV CNV Education FvOv	177,921
Secondary education (VO)	Secondary Education Council	General Teaching Union Abvakabo FNV CNV Education FvOv	105,920
Senior secondary vocational education (MBO)	MBO Council	General Teaching Union Abvakabo FNV CNV Education FvOv/UNIENFTO	51,204
Higher professional education (HBO)	Association of Universities of Applied Sciences	General Teaching Union Abvakabo FNV CNV Education UNIENFTO/FvOv	43,352
University education	Association of Universities in the Netherlands (VSNU)	FNV Government AC/FBZ VAWO/CMHF CNV Government	53,086

Table 1. Educational sectors (including green education and adult education, based on CLA texts and the Public Sector Labour Affairs Databank)





4

The Dutch Civil Service in Figures

BY FRITS VAN DER MEER & GERRIT DIJKSTRA

4

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If we refer to a Dutch civil service, this could incorrectly be assumed to mean that there is a large and integrated civil service organisation which encompasses the different administrative tiers and government organisations. This is not and never has been the case in the Netherlands. A complicating factor is that many tasks (including education and health care) form part of the area in between government and society. The same therefore applies for the employees. The character of the decentralised unified state is also reflected here in a widely spread and, to some extent, fragmented responsibility for the civil service organisation. Every government authority is very largely responsible for its own staff. The Netherlands does not have a centralised recruitment system. Within government authorities (such as the central government and individual municipal authorities), a degree of decentralisation of recruitment can be seen, although more recently the central government has been saying it wishes to introduce more coordination.

In part, this conventional method of realising HRM at the organisational level is related to the fact that the job system predominates in the Netherlands. Recruitment takes place for a specific job, not for a career. There are three important exceptions to this rule. Firstly, career systems exist for specific sectors, similar to the French career structure. Their origins can also be said to lie in the French era. This concerns the police, the judiciary, the Defence department and the diplomatic service. Secondly, in the early 1990s a general (management-oriented) career system for senior civil servants, in particular those in central government, was introduced: the General Administrative Service (ABD), including another tier for senior civil servants, the senior management group. Finally, a management traineeship was introduced for high potentials in the central government and at a number of municipal authorities.

Fragmentation is therefore a distinct feature of the civil service in the Netherlands. This chapter also describes how many civil servants there are, where they work, how many men and women there are per government authority and the hierarchical division of these civil servants.

First, the (changing) numbers of government personnel. In practice, this proves to be a fairly complex matter, due to the description to be used of what 'government personnel' should refer to. This causes a fair amount of confusion in discussions on the numbers of government personnel. This confusion is caused by the aforementioned fragmentation. Often, the point of departure taken is the personnel on the payroll of organisations within a particular government sector in which negotiations are conducted between government employers and employees. A review of the situation in 2013 is presented in Table 2.

	Persons Total
Central government	116,413
Municipal authorities	155,140
Provincial authorities	11,494
Judiciary	3,537
Water authorities	10,091
Primary education	177,921
Secondary education	105,920
Senior secondary vocational education	51,204
Higher professional education	43,352
University education	53,086
Research institutes	2,763
University medical centres	67,336
Defence	60,185
Police	65,089
Joint regulations	33,548
Total	957,079

Table 2. Personnel in the government and education sectors in 2013 (based on the Public Sector Labour Affairs Databank, 2014)

Year	Number	Percentage of the population
1849	42,500	1.4
1920	191,000	2.8
1947	360,100	3.7
1960	430,200	3.7
1982	615,200	4.3
1995	475,560	3.1
2000	456,900	2.9
2005	476,100	2.9
2006	474,300	2.9
2010	486,400	2.9
2011	472,400	2.8
2012	464,000	2.8
2013	455,500	2.7

Table 3. The movements in government personnel in public administration (central government with public-law state-owned companies, provincial authorities, municipal authorities, the police, the Defence department, water authorities, the judiciary and joint regulations, rounded off to 100s) in absolute figures and as a percentage of the total population.

In technical terms, the joint regulations do not constitute a negotiating sector. In total, this involves 957,079 persons. Most of them (501,582 persons) were employed in the education sector and teaching hospitals in 2013. The remaining sectors are attributed to public administration here. In 2013, 455,497 persons were employed in these sectors. For the analysis of the size of the civil service, it is more usual to focus on public administration. A long-term review of personnel in public administration from 1849 up to and including a projection for 2013 is presented below.

Table 3 shows that after a peak in the early 1980s, the number of personnel in absolute terms has fallen, by 5% between 1982 and 2012. The diminution is explained partly by the privatisation of PTT, but even with a reconciliation of the state-owned companies (1982: 507,900), there proves to have been a reduction after that time. This also applies for the Ministries, municipal authorities, other lower tiers of government, the Defence department and, in the most recent years, for the security sector. The data do not state that this also applies to the NDPBs.

The reduction realised is consistent with the policies, as described above, of the various Cabinets and other government authorities during the relevant period. Not until after 2010 did the reduction become more substantial. Sharp fluctuations also occur in the overall public administration throughout the entire period. For example, the level of 2010 is comparable to that of 1980. This is partly related to a fairly explosive growth of the security chain, in addition to reductions in other sectors. It is notable that the percentage of population represented by government personnel in 2013 (2.7) was slightly lower than in 1920 (2.8).

These overall figures are interesting, but the number of personnel employed in public administration is the sum total of the various government authorities and the developments within the individual government authorities are the result of changes within policy sectors. The changes within central government personnel, followed by the changes within municipal authority personnel, are shown below.

Year	Central government personnel	Increase/reduction in relation to previous count
1988	125,043	
2000	115,884	-
2001	119,304	+
2002	126,455	+
2003	125,393	+
2004	119,630	-
2005	116,616	-
2006	120,287	+
2007	123,171	+
2008	123,355	+
2009	123,599	+
2010	122,537	-
2011	119,064	-
2012	116,997	-
2013	116,413	-

Table 4. Central government personnel 1988-2013

Overall, a comparison between 1988 and 2013 shows a reduction, but if we consider the successive years from 2000 to 2013, the number of years with an increase and the number of years with a reduction remain virtually in balance. Only from 2009 does a more systematic reduction line become more apparent. If we refine the analysis, it becomes notable that the reduction between 2002-2005 relates, in addition to a more general reduction, to privatisations. Furthermore, most of the privatisations took place in the 1990s. A more permanent increase took place in the public order and security sector. The increase between 2000 and 2010 amounted to about 10,000 persons. This means that a sharp fall occurred in other sectors, which cannot automatically be explained by privatisations, the peak of which occurred earlier. Movements for the municipal authorities are shown in Table 5.

Table 5 shows the movements in personnel from 1960 to year-end 2013.

Year	Municipal authorities
1960	142,100
1982	229,645
1988	222,984
1996	173,305
2003	197,523
2012	163,115
2013	155,140

Table 5. Municipal authority personnel 1960-2013 (to year-end 1988 including the police; from 1993 abolition of the municipal police forces; about 28,000 in 1988)

It should be noted here that an interruption occurs in 1993 due to the merger of the national and municipal police forces, as a result of which these employees disappeared from the statistics. In 1988 this involved an estimated 25,000 persons. However, this operation is only one reason for the reduction that occurred. Equally important is the privatisation of operational units. This is a long list: hospitals, nursing homes, abattoirs, housing organisations, most energy and drinking water companies, airports and maritime ports and municipal public transport companies. Only a few examples are given here. In addition, more tasks are transferred to municipal regulations, for which the total number of personnel rose from 21,881 in 1988 to 33,548 in 2013.

If we were to update the figures for 1982 for 'disappeared' units of this kind, which are no longer included in the municipal personnel in 2012, the result is a maximum of 157,000 in 1982. A slight increase would then occur; this is not surprising, given the increase in the scale of the tasks as a result of the decentralisation policy.

As an effect of decentralisation which was not fully costed due to cut-backs, a further decrease of 4% is expected at municipal authorities in the coming years (according to the analysis of the A&O Fund Personnel Monitor). Proposed plans of larger municipal authorities such as Rotterdam, The Hague and Enschede (but not only these) show that the reduction will be still larger.

Year	Three major cities	% of total municipal personnel
1996	48,253	27.8
2003	52,697	26.7
2012	35,610	21.8
2013	33,916	21.9

Table 6. The share of the three major cities in municipal authority personnel.

The reduction in municipal companies and services was particularly sharp in the largest municipal authorities, as they had more municipal companies in the past.

Conclusion: personnel in the government and education sectors is a broad concept (more than 950,000 persons in 2013 (see Table 2)).

If we apply the narrower term 'government personnel', this involves more than 450,000 persons in 2013 (Table 3).

In 2013 more than 115,000 persons were employed by the central government (Table 4).

In the same year, 155,000 persons were employed by the municipal authorities (Table 5), slightly more than 20% of these in the three major cities of Amsterdam, Rotterdam and The Hague (Table 6).

With regard to movements in the number of government personnel, there is naturally a major increase in the longer term (1849-2013), both in absolute numbers and as a percentage of the total population (Table 3). There has been a diminution in these numbers in recent years.

It is notable that the number of persons employed in public service as a percentage of the total population is even slightly lower in 2013 (2.7%) than in 1920 (2.8%).





5

The Legal Position of Civil Servants and Developments in This

BY BAREND BARENTSEN

5

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Dutch government personnel have always held a special legal position. A large proportion of them are appointed as civil servants. This means that they are subject to civil service law, not to the labour law applying between employers and employees in the private sector. It is important to emphasise that in the Netherlands, in addition to many civil servants, there are also many employees working in the public sector or at least in the public interest. A large proportion of the personnel in education and healthcare are employees, not civil servants in a strict sense.

A distinguishing feature of civil servants is that they perform their work on the basis of an appointment. This means that they are unilaterally appointed by their employer, a part of the government. Employees work on the basis of an employment contract, which is contracted by two parties (the employer and the employee). In a certain sense, this construction reflects the fundamental legal inequality between the government, with public authority, and those who work for it. The rights and obligations of civil servants have therefore not been laid down in a contract or a CLA contracted with trade unions. They have been laid down in law. Once again, therefore, these are rules established unilaterally by the government.

The idea that civil servants are employed unilaterally, as if by an accolade, as it were, does need to be seen in perspective. Naturally, civil servants cannot usually be unilaterally appointed against their will and the appointment is preceded by consultation and consensus. Formally, however, there is only a legal relationship between the government and a civil servant if the latter is nominated or appointed by the former. In order to give rise to an employment contract, the realisation of consensus is enough. Once again, to put this in perspective, it should

be noted that, in fact, there is no equality between many private employers and employees either. Although the employment is based on a contract, on consensus, its contents are in fact dictated by the economically stronger party, the employer. The conclusion of a contract means little more than that the employee declares his or her consent to the employment conditions applied or drawn up by the employer.

This contribution outlines when a civil service appointment exists. The main

regulations on legal positioning applying for civil servants are then discussed. Then the issue of standardisation is raised. This standardisation means that the separate rules for civil servants in recent decades have been replaced in many respects by rules that apply for everyone working in paid employment: the 'normal' labour law becoming applicable. The boundaries between the public interest and private interests, between employees and civil servants, have faded.

public servant

appointment
normalization
public interest
employment contract

The status of civil servants

In the Civil Servants Act 1929 (AW), civil servants are defined as persons appointed to work in public service. This definition is actually one of the few important elements of that Act. Much of the content of the Act has been abolished over time (see also the next paragraph).

We can deduce from the legal definition that a civil servant must be appointed. This means that this appointment must be based on a decision. In view of the definition of a decision in the General Administrative Law Act (Awb), it follows from this that the employer must be a part of the government and must hold public authority. This is also shown by the second element of the definition: work in public service. A degree of discussion is possible regarding the question of which work is or is not included in public service. In the not-so-distant past, the delivery of post was regarded as a government task and the employees of the post office were civil servants. This is no longer the case. It is also far from clear for all civil servants that they hold a public office. There will be little doubt regarding a police constable, but to what

extent does this also apply for those who are HR managers or cleaners for the police force?

However, in practice this element of the definition of a civil servant does not give rise to too many problems. Those who work for government institutions on the basis of an appointment are regarded as civil servants, even if they do not serve the general interest clearly and directly. In fact, we can interpret 'in public service' as 'in the service of a public employer'. It then concerns institutions created pursuant to public law, such as the state (central government), provincial authorities, municipal authorities and water authorities. A number of universities also hold this public law status and, therefore, also employ civil servants.

As already noted, not all employees of public institutions are civil servants. Many educational and healthcare institutions have a legal status under private law and do not appoint their personnel, but conclude employment contracts with them. Various public-law institutions, including the Employee Insurance Agency (UWV) and the Social Insurance Bank (SVB), which pay social insurance

benefits, certainly form part of the public service, but still work with employment contracts. If there is no appointment decision, there cannot be a civil service appointment, even though there is no doubt whatsoever that the person concerned and his or her employer perform a public task.

Doubts about whether a person is a civil servant or not arise primarily at private institutions that perform government tasks. Unless they have appointed their personnel, those personnel cannot be civil servants. Unlike in the case of public-law legal entities, it is then important that these institutions, despite their private-law status, form part of the public services. This requires that they are predominantly under government control. This means that a public-law institution, often a municipal authority, must have a decisive say in the composition of the management and financial management of the private institution and the way in which its activities are performed. If the involvement of the government institution becomes less intensive, i.e. if the private institution becomes independent or comes to operate at greater arm's length from the

government in other ways, both the institution and its personnel will lose their public status. This occurred with a zoo in Rotterdam, for example, which in the past was operated by a foundation managed by the municipal authority. After the municipal authority had reduced its control, the zoo and its personnel no longer formed part of the public services. A similar development occurred somewhat more recently in the municipality of Enschede, at a foundation that was active in the field of welfare. It can be deduced from this that the question whether an institution forms part of the public services need not be investigated substantively. The point is not whether the operation of a zoo or welfare work are or are not government tasks. (Views on this differ, and also change over time.) The determining factor is whether the employer was instituted pursuant to public law or is governed by such a public law institution. There must then also be an appointment.

The status of civil servant therefore depends on two formal criteria: an appointment decision and the public-law character of the institution at which the civil servant works.

For certain groups of civil servants, namely judges and military personnel, the definition of the Civil Servants Act does not apply. They are subject to their own legal regimes: that of the military official and that of the judicial official, each based on their own Act. However, their employment is also based on an appointment as a civil servant. In outline, however, the position of these special civil servants is also very similar, if not identical, to that of the civil servants subject to the 1929 Civil Servants Act. What it amounts to is that additional rules apply for them in connection with the tasks that they must perform. With

regard to judges, this concerns their independence and the accompanying appointment for life. With regard to military personnel, it concerns rules of military discipline and deployability in crisis and conflict situations.

The legal position of civil servants

The Civil Servants Act that entered into force in 1929 therefore contains the definition of a civil servant. That is actually one of the few significant provisions that the Act contains. The main rights and obligations of a civil servant have been laid down in the regulations on legal positioning drawn up by his or her own employer. Article 125 of the 1929 Civil Servants Act contains the order - and the grounds for authorisation - for government employers to impose rules on the legal position of their own personnel. The Civil Servants Act provides that government employers must issue rules on matters including dismissal, salaries, employee participation and working conditions. Government employers must also pursue an integrity policy (Article 125quater of the 1929 Civil Servants Act) and draw up regulations on the oath of office (Article 125 quinquies of the 1929 Civil Servants Act). These matters themselves are not regulated in the Act. To that extent, the 1929 Civil Servant Act is a law with fairly little substance. The main rules have been laid down elsewhere.

The Civil Servants Act does contain a number of general standards. Government employers must conduct themselves as befits good employers and civil servants as befits good civil servants. This open, if not vague, standard forms the basis for more concrete requirements that civil servants and their employers can impose on each other. For civil

servants, the standard implies that they must perform their work to the best of their ability, with integrity, and that they must be loyal to their employer. The Civil Servants Act also regulates restrictions on the exercise of constitutional rights by civil servants. The statutory basis is necessary, because the Constitution and human rights conventions require that government interventions in constitutional rights be regulated by law. The same applies if the government considers it necessary to limit those rights in its capacity as an employer.

For example, Article 125a of the Civil Servants Act provides that civil servants must refrain from public expression of opinions that impede the proper performance of their work or the proper functioning of the service. Civil servants have the right to freedom of expression, but this is restricted by the 'functioning standard'. This standard, too, has a fairly open character, but is developed in more details in the jurisprudence and further regulations. The question of whether a civil servant must refrain from public expression of his or her ideas is assessed on the basis of different points of view. Among other things, it is important whether confidential information is involved, whether the expression is unnecessarily damaging or insulting to colleagues/managers, the seniority of the civil servant, and the degree of involvement in the matter that he or she raises. With regard to the latter, is it not the intention that a senior civil servant in the Tax and Customs Administration should still try to win approval via the media if a Minister has decided to take a particular fiscal measure even though the civil servant advised otherwise. A civil servant from another institution, who is not involved in the file, would be permitted to oppose this measure publicly.

A recent example is that of a civil servant at the Ministry of Security and Justice, employed in the department concerned with control of terrorism. In the summer of 2014, she posted on Twitter that IS (ISIS) was a fantasy, an Israeli plot. The Minister regarded this as dereliction of duty and found that this civil servant could not be kept in that department.

Regulation of the legal position

The bulk of the civil servant's rights and obligations have been laid down in the regulations on legal positioning which the employer has drawn up. The government is divided into different sectors and each of these sectors has its own regulations. For example, the General Central Government Civil Servants Regulations (ARAR) apply for central government civil servants, while separate regulations apply for other sectors, such as the police force, education, water authorities, provincial authorities and municipal authorities. In a certain sense, these regulations play the same role as CLAs in the private sector: collective regulations of employment conditions applying throughout the 'business'. The regulations on legal positioning therefore regulate matters that tend to be laid down in CLAs, such as salaries, provisions for reorganisations, supplements to the social insurance benefits and holidays. Precisely because the regulations act as CLAs, a government employer can alter these regulations only with the consent of the civil service trade unions. With regard to the decentralised government authorities, it should be noted that they each have their own regulations on employment conditions. However, these are based on agreements reached at the national level with trade unions and representatives of these government

authorities. Even though, technically speaking, this is not the case, a national CLA in fact applies for municipal authorities, for instance. This is then translated into regulations on legal positioning by each municipal authority.

An important part of the regulations on legal positioning is the right of dismissal. Although the details of the regulations vary, what this amounts to is that a government employer may only dismiss an employee if one of the grounds listed in the regulation arises. The employer must then show that the conditions for dismissal have been met. One example is dismissal on the grounds of redundancy or withdrawal of the job, arising through a reorganisation. The employer must then show that there is no further work for the civil servant in the existing position, either because the job has been eliminated or because the number of jobs is to be reduced and other civil servants may stay. Furthermore, the employer must be able to show that sufficient efforts have been made to place the civil servant in another suitable position. Another example is lack of suitability for the job. This ground for dismissal arises if the civil servant fails to function for a longer period or dysfunctions extremely seriously and has explicitly been given a chance to improve his or her performance. Long-term incapacity for work due to illness is also ground for dismissal, again if it proves impossible to find a new job for the civil servant. Serious dereliction of duty, attributable action by the civil servant, does not, in itself, give rise to a ground for dismissal (punitive dismissal). Furthermore, a civil servant cannot resign. He or she can ask the employer to dismiss him or her. Dismissal on request is one of the statutory possibilities for dismissing a civil servant.

A final important element of the legal position of civil servants is that civil service law is part of administrative law. This means that decisions of the government employer on appointment, promotion, transfers and in fact everything relating to the employment can be regarded as decisions within the meaning of the General Administrative Law Act. It follows from this that the administrative legal procedure of the General Administrative Law Act applies between the civil servant and the government employer. It is also important to note that the requirements imposed for government decisions by the General Administrative Law Act, for example that they must be adequately justified and must be based on a sound consideration of interests, also apply for decisions that impact the rights of the civil servant. This may involve very serious decisions (punitive dismissal), but also, for example, a refusal to grant remuneration for a snack bought during a short service trip.

Pursuant to the General Administrative Law Act, a civil servant who disagrees with a decision must submit an objection to the employer within six weeks. The employer will reconsider the decision in internal proceedings. Many government institutions work with independent disputes committees which advise the employer on a decision after quasi-legal proceedings. If the committee does not find in favour of the civil servant, he or she may file another appeal to the administrative law sector or a district court within six weeks. The competent legal instance on appeal is then the Central Appeals Court. This is the highest court for civil service cases. Thereafter there are no further possibilities for appeal, apart from international instances such as the European Court of Human Rights.

Standardisation

As already mentioned above, the formal differences between employers and civil servants arising from the difference between a two-way contract and a unilateral appointment should not be exaggerated. In material terms, both reach binding agreements with their employer regarding the job, entry into service and their salary. In fact, neither need to agree an enormous amount, as most of the employment conditions have been laid down in a collective regulation drawn up with the consent of the trade unions: the CLA or the regulations on legal positioning. Although the government employer has legislative powers, it cannot change those individual or collective agreements, or certainly not easily, any more than a private employer can simply extricate itself from contractual obligations.

It has also been made clear above that serving the public interest is not the exclusive domain of civil servants. A number of government institutions do not appoint any civil servants, but have employees. In addition, a large number of employees work at private education and healthcare institutions. They certainly work in the general interest and their employer is also financed from public funds, but they are not civil servants. Another example is that of the clinics for mentally ill detainees under a hospital order. In part, these are government institutions at which government civil servants are employed, and in part they are private institutions with employees.

With the obscuring of the differences between work in the public and private sectors, a process of standardisation has begun. Standardisation means that the rules applying for civil servants are equated with the rules applying for

employees. The rules for employees are the norm and separate rules must apply only in as far as the special position of the government necessitates special rules for the personnel. The term 'standardisation' is therefore not purely objective. It implies that separate rules for those who work for the government require justification. In recent decades, there has also been a great deal of discussion on the question of whether civil servants and employees can be equated in principle and, above all, the question of to what extent this is possible. On the one hand, there is the view that the appointment and specific legal position of civil servants ensure that civil servants perform their work with integrity and independently. They are thus protected against political arbitrariness, while at the same time far-reaching requirements can be imposed on them. On the other hand, there is the view that the legal position of civil servants is only a means to an end, not an end in itself. If work is performed on the basis of an employment contract, it is also entirely possible to adequately establish the rights and obligations of people who work for the government.

As already mentioned, a trend towards standardisation has developed in the past 30 years. Special civil service rules, including the statutory prohibition of strikes by civil servants, have been abolished. Worker participation is now also subject to the same rules as those for employees (since 1995): those of the Works Councils Act. Since 1997, civil servants have, in phases, been brought within the scope of the employee social insurance laws in relation to illness, occupational disability and unemployment. The pension fund for civil servants (ABP) has been privatised and is now similar to pension funds formed for particular segments in the private sector. The Working Conditions Act and the

Working Hours Act apply in both the government sector and in the private sector. Since a decision of the Central Appeals Court in 2000, the employer's duty to provide for safe working conditions for civil servants and the liability of employers for neglect of that duty or care have been the same as that for employees.

Another example of standardisation are probably the employment conditions regulations in 'hybrid sectors'. These are professional groups in which both civil servants with a government employer and employees with a private-law employer are employed. In addition to 'employees' in primary, secondary and university education, ambulance personnel are also an example of this. What this amounts to is that materially the same legal position applies for both groups (civil servants and employees). In the case of disputes, however, different courts are competent and the regulations usually contain separate provisions on dismissal law.

Member's Bill

Further to this, members of the House of Representatives submitted a Members' Bill for the standardisation of the legal position of civil servants. The House of Representatives adopted the Bill in 2014 and at the time of writing, it was before the Senate. The view of the members who submitted the Bill is that it is not right that civil servants should be treated in a fundamentally different way from employees. They also believe that the applicability of the General Administrative Law Act leads to too many complications and procedures.

Pursuant to the Bill, civil service appointments will be replaced by employment contracts. Consequently, the law on

employment contracts and CLAs and civil procedural law will become applicable to government employees. The Civil Servants Act will continue to apply to them; its special requirements for civil servants (integrity, restriction of the freedom of expression) will be maintained. In a response to criticism from opponents, the members who submitted the Bill stated that they acknowledge that work for the government is a special case. For that reason, the 'title' of civil servant will also be maintained and additional special rules will continue to apply.

The abolition of separate status for civil servants need not, therefore, stand in the way of initiatives such as the development of official professional skills. Extra requirements can already be imposed on employees, such as physicians or lawyers in paid employment. Professional codes, professional training courses and the like already exist in the private sector. This would also be possible for civil servants. In a certain sense, the same will apply for civil servants as for other 'special' employees. Depending on their position and the nature of their work, certain far-reaching requirements regarding loyalty, integrity and independence can also be imposed on certain employees in the private sector.

The idea is that when the new Act enters into force, certain appointments will be exchanged by law for employment contracts with the same content (position, salary, working hours) as before.

A limited number of existing civil servants will be excepted from the standardisation Act. This concerns military civil servants and civilian civil servants working at the Ministry of Defence, legal civil servants (including those at the Department of Public Prosecutions) and those working for the police force. They will remain

'old-style' civil servants with their own regulations on their legal position. They will be subject to the General Administrative Law Act and will work on the basis of an appointment rather than an employment contract. The members who submitted the Bill take the view that these civil servants are so exceptional that labour law does not suffice to regulate their position.

Conclusion

The position of most government employees is special, because most of them are civil servants. This means that a separate legal regime, including their 'own' procedural law, applies for them. The legal differences with employees in the private sector have become less significant than 20 or 30 years ago. The boundaries of the public domain are also different now. Postal services were privatised and banks, by contrast, were nationalised.

Even if the standardisation trend continues (still) further, the position of those who work for the government will remain special. It will depend on a person's precise position and place in the organisation, but high demands can also be placed on civil servants employed on the basis of labour law in terms of loyalty, integrity and independence. Civil servants will simply remain special.





6

Negotiations on Conditions of Employment in the Public Sector

BY LOE SPRENGERS

6

Negotiations on Conditions of Employment in the Public Sector

BY LOE SPRENGERS

In the Netherlands negotiations take place between employers and employees in companies (on corporate CLAs, social plans), in sectors (sectoral CLAs) and at the national level (where negotiations take place between the government, employers' organisations and trade unions). At the national level, agreements are reached on policy principles for the policy to be pursued on employment conditions and jobs, which are then developed in the CLA negotiations. The way in which talks on employment conditions between the 'social partners' and the government are regulated differs from the talks in the private sector. This is related to the government's special position as a legislator and employer and the fact that the legal position of civil servants was designed in an exceptional legal framework.

This chapter concerns the collective talks on the legal position of civil servants. The features of the talks, the matters regulated at the central level, the sector model, the way in which disputes are settled, the talks with works councils and, finally, the polder model will be discussed.

Features of the talks

The legal relationship between a government employer and a civil servant is designed as a unilateral legal relationship by means of the appointment. Pursuant to the Civil Servants Act, government employers are required to develop a number of material aspects of the legal position of the civil servants in advance, in regulations. This relates to matters such as their appointment, suspension and

dismissal, remuneration, working hours and leave. No legal regulation is available in the Netherlands in which the material law on the content of the legal position of civil servants has been developed and which applies for all civil servants. Different rules may apply, both per sector and per government employer. One of the rules that a government employer must draw up concerns the procedure for talks with the trade unions on matters of general interest for the legal status of the

civil servants. This must also record the matters on which agreement must be reached with the trade unions.

In the 1980s a start was made on changes to the negotiation process with the government in relation to a process that is sometimes referred to as the 'standardisation process'. The government is divided into sectors here, with negotiations on employment conditions being designed for each sector (see below).

The 'consensus requirement' is a distinguishing feature of the collective negotiations on employment conditions with the government. Most regulations provide that, if a government employer wishes to change regulations relating to the rights and obligations of civil servants, this requires the prior consent of the trade unions.

The consensus requirement was introduced in order to ensure that more or less equal negotiating partners take part in talks on CLAs. The consensus requirement means that parties must aim to reach consensus in the talks. It is important here that there are open and realistic talks, which means that both parties must be willing to take account of each other's position in order to reach agreements. The regulations on the legal position regulate the parties with which the employer will conduct the talks. In most cases this concerns the four trade union federations. Differences can be found between the different regulations on the way in which consensus is reached. Often, the 'majority requirement' is applied. This means that the employer must reach consensus with the majority of the trade unions. Another variant is that the consensus is established by taking account of the size of the trade union, considering the number of civil servants within a sector that are members of that union.

Negotiations at the central level

At the central level the Council for Policy on Government Personnel (ROP) has been installed. In this council, talks are conducted between the sectoral employers united in the Association of Government Sector Employers (VSO) and the Allied Government Personnel Trade Union Federations (SCO). The ROP has different tasks, ranging from advising the government to negotiating pension agreements. The suprasectoral talks take place at this level. Over time, partly as a result of the introduction of the sector model, the number of subjects on which suprasectoral agreements must be reached has diminished considerably. An important matter on which negotiations do still take place is formed by the regulations of pensions. The negotiations between the employers and the trade union federations on the pension scheme for civil servants take place in a separate pensions section installed by the ROP. Over time, the regulation of pensions for government personnel has been designed in a similar way as for other sectors of industry. This means that the pension capital has been separated and transferred to a separate pension fund which is managed by a board consisting of representatives of employers and employees. The government cannot, therefore, dispose of funds intended for civil servants' pensions (any longer) at any time and deploy these for other purposes in relation to budgetary objectives of the government policy. The pension fund management has its own responsibility in this, as with the managers of pension funds in the market sectors.

Sectors

Negotiations on employment conditions in government service are structured by sector. In each sector independent negotiations take place between representatives of the employees and the trade unions. A distinction is made between the Cabinet sectors and the other sectors. The Cabinet sectors are the central government, defence, the police and the judiciary. Non-Cabinet sectors are the municipal authorities, the provincial authorities and the water authorities, also known as the Independent Public Employers (ZPW). In between these are also the education sectors, which operate at an increasing distance from the Minister of Education. There are also sectors in which no civil servants are employed, but which are financed with public funds, such as the healthcare sector.

Within the Cabinet sectors, the government priorities often determine the deployment of the employment conditions talks. Coordination of the government employers on the deployment and scope for the employment conditions policy takes place under the leadership of the Minister of the Interior and Kingdom Relations. In times of crisis, this may mean that the Cabinet sets the zero line for pay rises for civil servants as the policy line for the government sectors. The negotiators for the employers in the Cabinet sectors feel more closely bound by this than the negotiators in the non-Cabinet sectors. For example, in the municipal authorities sector, it is evident

that considerations can also be made that are not fully consistent with the policy principles of the Cabinet. Partly in view of the fact that the municipal authorities partly dispose of their own income from municipal taxes, the municipal authorities have more financial scope to make their own emphases and choices than the Cabinet sectors.

Disputes

If the talks do not result in agreement on a proposal, provision has been made for a process towards an advisory and arbitration committee. Each party to the negotiations can request the advice of this committee; arbitration only takes place if all parties concerned commit to accept a binding decision by the committee. Generally speaking, the advice of this committee is followed. The parties take account of this advice and include it in the resumption of the talks. Often, the committee will express a view in its advisory report on an aspect on which the parties have reached deadlock in the negotiations. On the basis of the advice, it is then often possible to still reach agreement in the talks. The advice may play a role in the communications of both parties with their support base in the way in which agreement can ultimately be achieved in the talks.

In addition to the advice and arbitration regulations, civil servants have the possibility of collective actions in the event of conflicts in the employment conditions negotiations. This is based on the provisions of the European Social Charter (Article 6(4)), which have direct effect. Only for Defence personnel is provision made for a statutory regulation that denies them the right to strike. There are no statutory restrictions for other civil servants. However, the jurisprudence provides that the right to collective action

may be restricted if this conflicts too severely with the justifiable interests of third parties in Dutch society.

Talks with works councils

The Works Councils Act (WOR) provides that organisations with more than 50 employees must have a works council. This Act also applies for the government sector, with the exception of the defence sector and some education sectors. Separate employee participation regulations apply for these.

In the negotiations on employment conditions, the trade unions take precedence. The powers of the works council are supplementary to this. CLA agreements often provide that their development within companies will take place in consultation with the works council. The WOR assigns advisory rights to works councils with regard to proposed decisions on important business economic and organisational matters, such as the transfer of control, the contracting of a long-term partnership and reorganisations. A works council has a right of consent to regulations in the field of social policy, such as the regulations on working hours and holidays, an assessment system and the policy on appointments, promotion and dismissals. The Act includes one important exception for works councils in government bodies, sometimes known as 'the political primacy'. The statutory powers of works councils lapse if a matter relates to the government's public law tasks and this does not involve any consequences for the work of the civil servants.

Polder model

The consultative model in the Netherlands is often referred to as the 'polder model'. This term relates to Dutch history, in which cooperation was a requirement in the joint battle against the water to prevent regions from flooding. This would explain the almost natural desire of the Dutch to open talks before taking and implementing decisions. Investing in talks before taking a decision helps to create a base of support and more speed in the implementation of the decision. The relatively low number of strikes is a distinguishing feature of Dutch labour relations. This is (partly) the result of involving representatives of the personnel, the trade unions and works councils in decision-making in advance. The polder model is not uncontroversial. It can obstruct fast and effective decision-making and lead to half-baked compromises. This criticism certainly comes up in difficult economic times. But in general there is consensus that involving representatives of the personnel in decision-making at an early stage is or should be a self-evident step. This is certainly the case for talks in the government sectors.

Employment conditions negotiations illustrated on the basis of a case: Defence

Defence personnel

DOOR MAARTEN SUWOUT

The defence sector consists of military and civilian personnel. The rights and obligations of military personnel have been laid down in the Constitution, the Military Civil Servants Act 1931 (MAW) and the General Military Civil Servants Regulations (AMAR). For civilian personnel, the Civil Servants Act and the Defence Department Regulations for Civilian Civil Servants apply. The distinction between civilian and military personnel is a special feature of the defence sector and is reflected in two civil service law regulations within a single sector.

1 The employment conditions of military personnel

The army does its work under difficult and threatening conditions. Service men and women must operate in environments in which the violence to which they are exposed and the force that they themselves must apply are not their own choice.

The armed forces must be able to perform their tasks at all times. For that reason, service men and women must be deployable immediately. This means that they must be educated and trained for armed deployment and other forms of action. Service men and women must be physically and mentally prepared to perform at any time, anywhere and for as long as necessary, often under difficult and life-threatening conditions. At set times, laws and regulations may be made inapplicable for this purpose. In order to ensure that they can always be available and can be deployed immediately, a number of obligations apply for military personnel. Military personnel are required to perform their assigned tasks, anywhere in the world. Military personnel are also forbidden to participate in strikes or collective actions. Military personnel are also subject to restrictions on their own physical integrity. In their free time, accessibility obligations or leisure restrictions apply and the possibilities for resignation are subject to restrictions. Military personnel are also subject to their own criminal and disciplinary laws and to mandatory medical care.

In view of the nature of the operational tasks to be performed, the Defence department has remuneration that serves as compensation for endangerment, irregular hours or demanding conditions. Examples of this include the allowances for munitions clearance, the exercise allowance, the posting allowance and the flying allowance.

A special aspect of the employment conditions of military personnel is formed by the discharge regulations. Service men and women are discharged on reaching the age at which they can no longer function fully as servicemen or women. Individual service men or women have no freedom of choice in this matter.

2 The employment conditions of civilian personnel

The armed forces consist partly of civilian personnel. These personnel have their own legal status. For civilian civil servants in the armed forces, the regulations for military personnel do not apply. Civilian civil servants are not subject to military penal and disciplinary law and, unlike service men and women, are not subject to mandatory medical care by the employer. Nevertheless, the civilian personnel form part of the armed forces and, in that sense, are subject to restrictions, for example with regard to the application of the Working Conditions Act.

Defence sector negotiations

The employment conditions for defence personnel are realised in the Organised Consultation Platform. For service men and women, this originated in the Royal Decree of 30 January 1922, which installed the Organised Consultative Platform for military personnel. A separate consultative platform was set up for officers and junior officers. There was also a split between negotiations for the Navy, the Army and later also the Air Force. The Decree on the Organised Consultative Platform for Military Personnel followed in 1974. This installed the employment conditions negotiating platform for military personnel and conscripts to the armed forces. In addition, each element of the armed forces had its own 'Special Committee', which conducted the employment conditions talks. Employment conditions negotiations for civilian personnel took place in the Central Committee for Organised Talks in Civil Service Cases of

the former Ministry of Internal Affairs. For Defence department personnel, there were several committees that conducted negotiations on employment conditions. Partly due to the differences in the packages of tasks of the different elements of the armed forces, there were differences in the employment conditions for each element. For example, pursuant to the Military Personnel Incomes Decree, there are still different salary scales for the military personnel of the Royal Netherlands Navy and those of the Royal Netherlands Army, Royal Netherlands Air Force and the Royal Netherlands Military Constabulary. There are also separate salary scales for civilian personnel.

Ultimately, as part of the introduction of the sector model throughout the government, the defence sector was created in 1993. This resulted in the installation of a single negotiating platform on employment conditions for all defence personnel, both military and civilian.

Initially, the differences in legal status meant that there was little harmonisation in the field of employment conditions. Since then, partly because of the joint action of the different elements of the armed forces, major steps forward have been taken.

The Special Committees have now been disbanded and the Minister of Defence holds responsibility for the negotiations on employment conditions. The Director of HR conducts these talks for this Minister. The talks in the defence sector are conducted with representatives of the Government Personnel Centres. Two representatives from each centre take part in the talks. As a rule, these are one representative on behalf of the military personnel and one on behalf of the civilian personnel. One vote may be cast by each centre. In the defence sector talks, negotiations on employment conditions are conducted for both military and civilian personnel. A consensus requirement applies for these talks. Three of the four centres must consent to the policy to be pursued. The representation within the sectoral talks is as follows:

- The General Centre for Government Personnel: this is represented by the General Federation for Military Personnel, the Military Constabulary Association and by Abvakabo FNV for the civilian personnel;
- The Christian Centre for Government and Education Personnel: this is represented by the General Christian Organisation for Military Personnel and by CNV Publieke Zaak for the civilian personnel;
- The Centre for Middle and Senior Officials in Government, Education, Companies and Institutions: this is represented by the Royal Netherlands Association of Naval Officers (KVMO) and the Royal Association of Dutch Reserve Officers, and by the Association of Middle and Senior Civilian Civil Servants in Defence for the civilian personnel;
- The Civil Servants Centre: this is represented by the Trade Union for Defence Personnel VBM/NOV, for both military and civilian personnel.

Matters raised in the sectoral negotiations include the specific aspects of the deployment of defence personnel, income development, the flexible personnel system, the discharge regulations, military pensions and social insurance.





Wage Developments in the Public Sector, in Comparison with the Private Sector

BY ADRI STET

7

Wage Developments in the Public Sector, in Comparison with the Private Sector

BY ADRI STET

In the Netherlands, wages in the public and semi-public sectors are linked to payroll developments in the private sector. Payroll developments generally depend on negotiations between employers' organisations and trade unions at the level of a company or business sector. In the private sector, payroll developments are covered from productivity improvements, among other things. In the public sector it is far more difficult to determine productivity; many services are not offered in the private sector. This is why it is difficult to establish a market price for the service and, on that basis, the wage level. Furthermore, no one considers it desirable that this sector should compete in terms of employment conditions (and, therefore, wages) with the private sector.

If we consider the method of determining payroll developments, we can divide the public and semi-public sectors into the government (including the education sectors) and the healthcare sector.

Payroll costs for the government (including in the two other sectors) have a tendency to rise annually in order to continue to provide coverage for incidental and structural payroll developments in CLA or individual agreements. Incidental payroll developments are individual agreements between the employer and employee. Structural payroll developments are collective agreements. Both agreements depend on the extra financial scope that the Cabinet offers the government sector each year in order to cover payroll agreements. In the government sector (including education), 14 umbrella employers' organisations negotiate with trade unions on payroll developments, which are then laid down in 14 sectoral CLAs. CLA sectors include municipal authorities, provincial authorities, primary education and the police force. The scope that government employers are given for payroll development depends on payroll developments in the private sector.

This principle also applies for the healthcare sector, although we increasingly regard this as a private sector in the Netherlands. CLAs are contracted with both the general hospitals and in the home care services and nursing home care. Politicians introduced competition into the healthcare sector. In the private

BOX 1

About €53 billion is paid from the Treasury to cover salaries in public administration and education for 815,600 FTEs (position in 2014); there are 14 sectoral CLAs. The healthcare sector, which has increasingly been privatised and placed at arm's length from the Cabinet in recent years, involves about 872,700 FTEs; the payroll costs for this amounted to about €44.3 billion in 2014. In the healthcare sector, there are 16 active CLAs. A significant part of the payroll costs in the healthcare sector is financed via the premium system. More than 500 CLAs are in effect in the private sector.

Sector	Volume of employees (FTEs)	Total payroll costs
Government	815,600	52.7 billion
Healthcare	872,700	44.3 billion
Market	4,060,000	231.5 billion

Table 7. Payroll costs and volume of employees, private, healthcare and government sectors 2014. (Figures: Netherlands Bureau for Economic Policy Analysis (CPB) 2015)

sector, as already mentioned, payroll developments depend to a large extent on the profitability or productivity of companies.

For many years now, the Cabinet has applied a certain objectified formula for the government sector, which depends on the expected and realised payroll developments in the private sector, but which has an intervention possibility for both incidental and structural payroll developments. The outcome of that formula can be adjusted for policy reasons. For example, in the past 15 years, the Cabinet has rarely compensated incidental payroll developments. Structural payroll developments have been adjusted downwardly on a number

of occasions (including in 2004 and 2005). The reverse has also occurred (in 2002 and 2006). In the past four years, the outcome of the formula was set at zero each year due to the economic crisis, known in common parlance as 'the zero line'. This means that for those years, the Cabinet only made the existing pay volume available, with no extra amounts to cover any payroll developments. Furthermore, the Cabinet has agreed that no wage increases may be agreed in the government sectors, even if the relevant sector still has scope for this in its budget. In the Cabinet's view, setting an example played an important role here. The idea is that wage moderation in the government sector leads to wage moderation in the private sector.

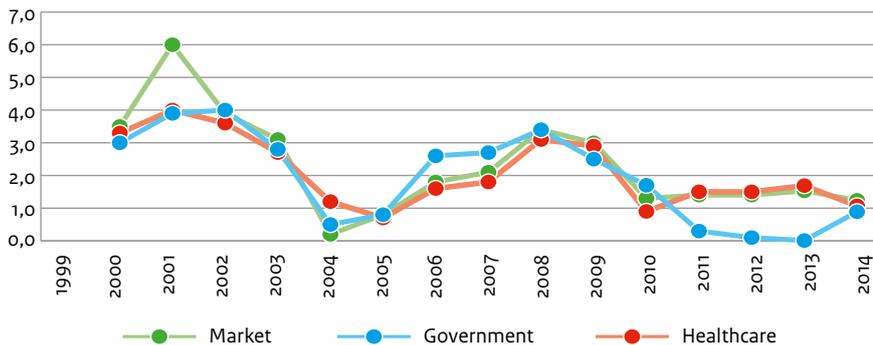


Figure 1. Percentage payroll development of the private, government and healthcare sectors: the total (1997-2014) on an annual basis (Source: Ministry of Social Affairs and Employment CLA spring reports 2000-2011, annual reports 2012 and subsequent years)

Payroll developments in the healthcare sector have a ‘true’ trend following character. This means that the healthcare sector follows payroll developments in the market, the trends, on the basis of a similar formula to that used in the government sector: the Government Contribution to the Labour Market Costs Development formula (OVA). However, the Cabinet has undertaken to in any event add the outcome of that formula to the budget for the healthcare sector. The Cabinet cannot alter this, as it is laid down in a covenant between the government and employers in the healthcare sector.

The effects are shown in Figure 1, which shows the distinction between payroll developments in the private, government and healthcare sectors on an annual basis. The healthcare sector normally closely follows the private sector, due to the OVA system. After all, the link is a direct one. Payroll developments in the government (and education) have somewhat more dynamism than payroll developments in the private sector: a

reflection of the influence of the Cabinet, particularly in the years from 2010 to 2014, but also before then. This influence was greater in CLA sectors of the government under the direct responsibility of a Minister: the central government, defence, police and judiciary CLA sectors. In the other governments and CLA sectors in education, some payroll increases were nevertheless agreed in a number of cases. The question of whether the CLA sector has other money flows played a role here, such as an individual form of taxation among the municipal authorities, or whether extra funds were available by other means (for example via orders from the private sector, the ‘third money flow’ in education).

Figure 2 shows cumulative payroll developments in 2014, again with the index year of 1999 (= 100). The figure shows that, due to regular Cabinet interventions, the government is now trailing the payroll development in the private sector. However, payroll development in the healthcare sector, which is linked directly to that of the private

sector, was nevertheless higher than in the private sector. This began to occur in 2000. The explanation is that around the year 2000, the healthcare sector received a great deal of extra financial resources from the Cabinet. At the time there was a major political problem: the waiting list problem. Patients had to wait for care a long time. With the money to reduce the waiting lists, it was apparently also possible to reach more generous CLA agreements that exceeded the OVA increase. That difference still exists and has even grown slightly.

Figure 2 provides no insight into the wages earned in the government sector on an hourly basis. A payroll development gap does not necessarily mean a gap in net hourly wages. The Netherlands Bureau for Economic Policy Analysis (a central government economic research bureau) recently concluded that wage moderation in the government very often has a temporary character. Figures calculated from 1980 onwards show that if a gap arises, it is closed again within three to four years.

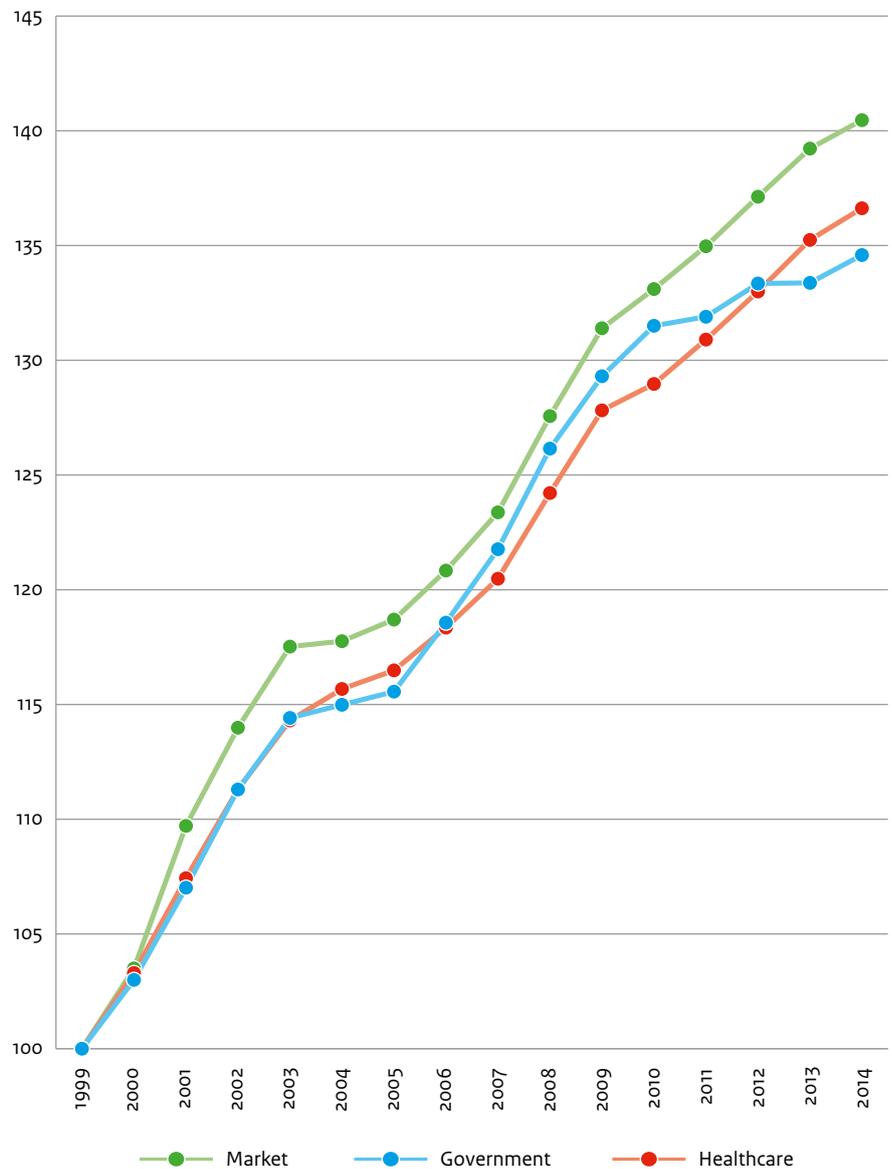


Figure 2. Percentage cumulated contract payroll development sectors (1999-2014), (1999: index = 100) (Sources: Ministry of Social Affairs and Employment; Ministry of the Interior and Kingdom Relations)

From high to low, government employees are bound by the same CLA. Some years ago a research agency showed that graduates in the government in similar positions to those in the private sector earn virtually the same on an hourly wage basis. Low-skilled workers earned slightly more in government jobs than in

similar jobs in the private sector. But older graduates in the private sector earned more on average, because they more often contracted individual pay agreements. The picture will probably now be somewhat less favourable for government jobs, due to the lengthy zero line.





8

Politicians and Civil Servants: Cycling in Tandem

BY ROEL BEKKER

8

Politicians and Civil Servants: Cycling in Tandem

BY ROEL BEKKER

In the Netherlands the civil service is clearly distinct from the political system. Obviously, civil servants work under the responsibility of politicians. Politicians come from an electoral process that leads to a parliament, and then to a Cabinet consisting of politically responsible Ministers and State Secretaries. Civil servants are appointed on the basis of their knowledge, experience and quality. Political influence or political preferences play no role in this. For senior civil servants, this is also encompassed in the rules of play applying for the General Administrative Service (ABD). The ABD consists of about 700 of the most senior civil servants in the Ministries. The Top Management Group (TMG) forms a special part of the ABD, consisting of the Secretaries General (responsible for the official management of a Ministry), Directors General (responsible for the management of a large operational service or a large policy issue) and a small number of similar officials, about 70 in all.

The civil servants forming part of the ABD must meet strict quality requirements. In principle, they rotate jobs after a few years. For the officials in the TMG, extra procedures apply, designed to guarantee that they meet high suitability requirements and that political considerations play no role in their appointment and assessment. Vacancies are made public. An independent committee draws up a list of potential candidates and a selection committee then makes a nomination, after which the relevant Minister makes his or her choice. Talks are then conducted on this between the relevant Minister and the Minister responsible for the central government civil servants. They send a joint appointment proposal to the Cabinet, which then takes a final decision on the appointment.

Close cooperation

Despite the distinction between politicians and civil servants, it is clear that they must work closely together. One cannot do without the other. Their relationship is sometimes typified as an arranged marriage, as a tango, or as cycling in tandem. Politicians and civil servants both work in the public interest, but with a different background, other

qualities and other values. Often, this goes well. In general, a good relationship is also an important condition for successful policy. But there are also frictions sometimes. Politicians sometimes feel that civil servants are working against them, or that civil servants have acquired too much power, or that their civil servants have not kept them well enough informed or given them enough warning.

Views of civil servants among the public also play a role. There are many negative images of civil servants, reflected in a large number of jokes about them. At election time, complaints about bureaucracy and too many civil servants are very popular. Civil servants, in turn, sometimes find politicians volatile, inconsistent, emotional or even unreliable. The political game is also at odds with the far more rational character of official work,

in which evidence, the long term, cohesion and the like are important catchphrases.

Because politicians are increasingly criticised and see that they have to make increasing efforts to win trust, they want to present themselves more emphatically, show that they respond quickly to acute problems and take account of emotions. They demand a form of support from their official services here which does not fit well with the traditional workings of the civil service. In many cases, the civil service confines itself to presenting rational arguments, often with the purport that something is not possible, or that there are procedural or other objections to a certain course of action. As a result, the risk can arise that politicians will ignore official advice of this kind or even avoid it. Politicians urge civil servants to show sufficient political sensitivity and not to confine themselves solely to a business-like presentation of the relevant facts, but also to consider any political aspects of a case or the political effects of their actions. Civil servants, in turn, sometimes also want to avoid tensions and then decide not to give unwelcome advice. This places pressure on the traditional task of the civil service to 'speak truth to power'.

In the Netherlands we do not have a system of political advisers (special advisers, as they are called in the UK), who provide the Minister with political advice. Each Minister does have a political assistant, but these have a limited role (maintaining contacts with the party or

the parliamentary party) and also a relatively modest ranking. Equally, we do not have appointments in which political preferences play a primary role, of officials who leave as soon as the Minister steps down. Furthermore, we do not have 'political cabinets', as in Belgium and France, giving a Minister a number of political confidants. The political system in the Netherlands is of a relatively modest size, with few Ministers (13 in 2015) and even fewer State Secretaries (seven). This implies that Ministers must rely almost entirely on the civil service for their support. And, as explained above, this can sometimes lead to frictions and tensions. So far this has not taken on any disturbing forms. Ultimately, Ministers usually prove to be very satisfied with the support that they have been given. In order to avoid frictions, agreements are increasingly being made on, for example, a working programme. Intensified dialogue can also lead to civil servants gaining more feeling for what motivates politicians, and also to politicians gaining more insight into how a civil service system works. This can contribute towards a climate in which even unwelcome advice remains built into the system and is not seen by politicians as counter-productive, but as a contribution to a better policy.

Politicians and civil servants: in the Netherlands, too, a relationship with tensions. The quality of their relationships largely determines the success of policy. Both groups know this all too well.





9

Developments

BY CASPAR VAN DEN BERG, GEORGE EVERS, FRANK VAN
KUIK, MAARTEN HILLENAAR & ESTER DE JONG

9 Developments

BY CASPAR VAN DEN BERG, GEORGE EVERS, FRANK VAN KUIK, MAARTEN HILLENAAR & ESTER DE JONG

9.1

Interweaving public authorities

DOOR CASPAR VAN DEN BERG

Just like Dutch society, the Dutch civil service is constantly changing. Major social changes can be divided into trends of a political, geopolitical, economic, technological and social nature. Examples of this are increasing globalisation, the changing economic world order, the rise of international terrorism, democratisation, individualisation, depillarisation, erosion of the automatic authority of institutions and professions, demographic developments such as ageing, migration and growing social diversity, and ICT revolutions.

All these 'mega trends' combined have contributed to two significant shifts in Dutch public administration in recent decades. The first of these is primarily horizontal in character and the second primarily vertical. The horizontal shift can be summarised as a shift from government to governance. The core of this shift is that the administration is increasingly less an *Alleingang* by centrally steered government organisations and more a question of governance 'taking place' as the joint activity of different types of organisations with different steering and control mechanisms. The government's role in this is one of facilitating other organisations that provide services and perform regulatory tasks (companies,

foundations, semipublic institutions and regional and local government authorities). This includes the functional and, since the 1990s, the organisational division between different types of official work, such as policy preparation, policy implementation and enforcement.

The vertical shift can be summarised as the shift from a national state to a multi-level governance system. The core of this shift is that increasing cooperation and interdependence has developed between the different levels of government: European, national, provincial, the water authorities and local. An increase in different forms of intermediate-level governance, flexible or otherwise, has also developed, such as intermunicipal cooperation and regional cooperation in the fields of taxes, the environment and waste management.

Some consequences of these shifts for public service and the work that civil servants perform are highlighted below. The Europeanisation of national public administration is manifested in different ways. Firstly, in the percentage of new laws and regulations that have their origins in the Brussels policy arena. Estimates of this for the Netherlands range from 60% to 80%. Secondly, in the

percentages of senior civil servants who are involved in one or more EU-related activities. 90% of Dutch senior civil servants in 2007 said that they were actively involved in EU-related work, compared with 87% in the UK. 55% of the Dutch senior civil servants also said that the European Commission is becoming increasingly important for the work that they do, compared with 44% of British senior civil servants who said the same (Van den Berg, 2011). The increasingly broad and deep involvement of national civil servants in Europe raises questions about the extent to which their activities can still be steered and monitored just as effectively by their Ministers and State Secretaries in The Hague. On the one hand, the greater physical distance from their Minister or State Secretary and the complexity of the decision-making in international organisations can be expected to increase the discretionary freedom of civil servants. However, the risk that national civil servants will take differing positions has been shown to be limited. Because the European arena has strong elements of diplomatic interaction, it is extremely important that national civil servants are assured of national political support. Political credibility and reliability are two of the main ingredients for official success in

the Brussels networks. European integration also has consequences for national policy coordination, and European integration has contributed to the uniform definition of the core of the civil service. Free movement of persons, which is part of the internal market, means that every EU citizen can in principle apply for vacant jobs in other Member States on an equal basis, apart from a number of positions of a type that involve the core of the state and national security. The rules that the European Commission has drawn up regarding which functions this concerns thereby provided a definition, applied throughout the EU, of the key tasks of the government and the core of the civil service.

As a result of political choices on the appropriate degree of government intervention in society, in combination with the pressure to limit government spending because of the economic crisis, in the Netherlands ideas relating to the 'participation society' and the 'energetic society' have been increasingly emphasised. The retreating state is already visible in different policy sectors, such as spatial planning and social policy. In other domains, such as security and justice, the opposite seems to be the case. Here the state is in fact taking on more and more responsibility, and government intervention, as well as the size of the official machinery, are growing. The transition from the active welfare state to the enabling security state raises important questions regarding how the role of the civil servant is perceived, the government's responsibility for the system, and the self-reliance of different groups of citizens, of which greater demands are made.

All in all, it is clear that the Dutch central government has had a responsive attitude

over the years to the changing social and international environment. Where necessary, that same responsive attitude is expected to lead to a somewhat altered equilibrium concerning the role conception and functioning of government. In this way, the historical line of finding and refining an optimal balance between the rule of law and flexibility, accountability and initiative, cost reduction and quality assurance, giving and taking responsibility, legitimacy and effectiveness, participation and decisiveness, encouragement and enforcement, will remain a constant in the development of the Dutch public service.

9.2

Decentralisation

DOOR GEORGE EVERS

In the last century, an extensive welfare state was built up in the Netherlands, in which the government took substantial responsibility for the citizens. Over the years, this welfare state proved to entail high costs, because more and more members of the public turned to the government to solve social problems. In the course of the 21st century, it became clear that measures had to be taken to guarantee the sustainability of the welfare state.

Against this background, the operation known as 'decentralisation of government tasks' was set up. As a rule, this is referred to as the '3D operation', because three of the tasks of central government were transferred to the municipal authorities: youth care, the provision for work and income, and care of patients with long-term illnesses and the elderly. As municipal authorities are closest to the citizens, they are able to match the care to the demand for care as closely as possible. Also important is the expectation that municipal authorities will be able to organise the care as efficiently as possible. At the same time, a decision was made to sharply reduce the budget for the provisions, to the displeasure of many municipal authorities.

Which tasks will the central government delegate to municipal authorities and what will this mean? This contribution briefly explains which challenges municipal authorities face.

3D: reduced regulatory burden and more self-help

The delegation of tasks to municipal authorities reduces the regulatory burden for citizens, because they will have to deal with fewer government institutions.

Since 1 January 2015, tasks that were previously performed by the central government or the provincial authorities have been performed by municipal authorities. Municipal authorities have consequently become the point of contact for citizens in relation to issues in the social domain (the term 'the social domain' is used as a compound term to indicate the transfer of tasks to municipal authorities). Municipal authorities will receive a great deal of policy freedom and can tailor their supply to the local situation. It is also envisaged that the transfer of tasks will lead to simpler and clearer organisation of the money flows to municipal authorities, creating more insight into the costs involved in these tasks.

In the background to this transfer of tasks to municipal authorities is the idea that citizens must themselves become increasingly involved in the performance of the tasks. This is also referred to as the 'participation society'. It is no longer the government that can bear responsibility for social issues. The deployment of citizens is necessary and volunteers and informal carers will be strongly urged to assist with the work in the social domain. Which tasks are involved?

Municipal authorities are responsible for the following tasks:

- Youth care: care for young people with health problems and/or a labour handicap, youth protection and youth rehabilitation.
- The provision for work and income: the support of people with labour handicaps in finding paid employment with regular employers. 35 labour market regions will be formed and the agreement is to create 125,000 extra

jobs for this group in the years up to 2026.

- Care for patients with long-term illnesses and the elderly: the support of patients with long-term illnesses and the elderly in the form of home care and district nursing, with the aim of enabling them to live independently for as long as possible.

In order to facilitate the transfer of tasks, an extensive support structure for municipal authorities has been set up.

Impact on the municipal organisation

The new tasks that municipal authorities have been performing since 2015 have consequences for the organisation of municipal authorities. Because municipal authorities will be assigned responsibility for (almost) the entire social domain, it is possible to create connections. This prevents duplication in the social domain and allows a far more adequate response to problem situations. Professionals will have to work together and search for ways to provide custom services for citizens. The term 'kitchen table talks' for this has gained popularity: discuss with citizens what they need in their own specific situations. A logical consequence of this is that differences will arise between citizens. For employees of municipal authorities who have grown up with the equality principle and are used to regulations accurately describing what a citizen is entitled to, this calls for a new way of thinking and new forms of action. The scope for professionals to decide what is needed in which situation is growing.

In order to provide for transparency in decision-making by professionals, it is necessary for them to provide for assessment and feedback, together with colleagues. In other words, learning at the workplace will become an important element in the decentralisation of tasks. The municipal authority must have trust in its employees to perform the tasks entrusted to them in a satisfactory manner. As a result the management style will change, from control to confidence. Related to this is the assumption that the way in which HR operates will change: it will be based less on the supply of HR instruments and aimed more at facilitating a permanent development process for employees.

In conclusion

The transitional process is still in full swing at municipal authorities. Reports appear regularly in the press on locations where the transition is not yet running smoothly. This is logical if we consider the scale of the decentralisation. Only in a few years' time will we be able to assess how well the decentralisation has worked.

9.3

A smaller and better central government sector

DOOR FRANK VAN KUIK

From the start of this century, successive governments have made efforts to realise a smaller and better central government sector. Programmes appeared in order to realise improvements in policy, implementation and supervision, under titles such as 'Different Government', 'Modernisation of the Central Government Sector', 'Compact Central Government Sector' and 'Central Government Sector Reform Agenda'.

Since the appearance of the 'Modernisation of the Central Government Sector' memorandum in 2007, the supporting operations in the fields of HR, information technology, procurement and contracting, facility affairs and accommodation have received special attention. In order to realise a large number of intentions in this field, the 'Directorate General Central Government Organisation and Operations' project was launched. In 2008 this became a permanent part of the Ministry of the Interior and Kingdom Relations, which was preparing the 'Compact Central Government Sector' and 'Central Government Sector Reform Agenda' programmes.

Attention is now anchored at the political level through the appointment of a Minister for the Central Government Sector.

The attention to a better approach to central government-wide operations is consequently of a recent date. Before 2008 this was primarily a task of the individual Ministries, which each made their own choices. This not only led to duplication, but also to problems in the mutual exchange of information or on the transfer of people from one Ministry

to another. The formation of the Directorate General Central Government Organisation and Operations started a move towards cooperation, standardisation and the joint creation of 'Shared Service Organisations' (SSOs). In 2007 P-Direkt had already been started as a forerunner. This organisation now provides the personnel administration for 123,000 civil servants with a P-Direkt portal, an HR portal and a contact centre. Central government civil servants can consequently regulate a large part of their personnel affairs themselves.

The cooperation between the Ministries was supported by the installation of an Interdepartmental Central Government Sector Operations Committee (ICBR), with representatives of all Ministries with the mandate to reach agreements in the field of the operations. This ICBR was affiliated to the Council of Ministers as a civil service lobby. By developing proposals in all operational areas, the ICBR has been able to further stimulate the central government-wide approach to operations. Two Cabinet programmes also contributed to this.

The 'Compact Central Government Sector Implementing Programme'

The objective of the 'Compact Central Government Sector Implementing Programme' (2011-2015) was 'a strong and small service-providing government'. The programme focused partly on better cooperation between the Ministries in the field of operations and also on better organisation of a number of implementing and supervisory tasks. In total, this involved 17 projects, divided over the three programme lines:

- 1) Expansion of the central government-wide infrastructure for the supporting operations;
- 2) Concentration of the supporting operations at the core departments;
- 3) Clustering/eliminating duplication of implementing and supervisory organisations.

In the field of operations, the programme ensured, among other things, that:

- the transfer of civil servants between Ministries has been simplified;
- a central government-wide system of P&O service provision has been created, consisting of four service providers;
- the number of central government office locations will shrink from about 130 to about 70 by 2020.

This produced the following results:

- an ultimate reduction of 30% in the necessary office floor area;
- four (central) government data centres have been realised and at the end of December 2014, 19 of the 64 existing data centres were closed;
- the number of ICT suppliers has fallen from 40 to 10;
- instead of 350 procurement points, there are now 20 Procurement Implementation Centres;
- a central government-wide system of four facility service providers has been realised;
- the number of workplaces provided by SSC-ICT Haaglanden with the Central Government Digital Workplace (DWR) increased from 27,000 in 2013 to 30,000 in 2014;

The Shared Service Organisation World-Wide Work supplies central government-wide support services for the international function.

The 'Compact Central Government Sector Implementing Programme' has also provided for the further expansion of a number of existing Shared Service Organisations and the formation of a number of new ones. The result of this is that a system of SSOs has been realised, to which almost all (core) Ministries are connected. The final connections will take place in the coming year. Only the Ministry of Defence could not connect to all SSOs, due to the specific character of the armed forces.

The 'Central Government Sector Reform Agenda'

With the 'Central Government Sector Reform Agenda', the Cabinet set out a number of substantial ambitions en route to a single central government sector, focusing on service provision to citizens and companies. With this, it is responding effectively to developments in society and cost awareness has developed. These objectives were attained partly via various projects in the following fields: policy preparation in a different way, better implementation, stronger supervision, and continuing on the path towards central government-wide operations.

Through mergers, new forms of cooperation and, to an increasingly degree, joint operations, the policy cores of the Ministries in The Hague increasingly function as a single central government sector. The number of FTEs diminished by 5.4% in total between 2010 and 2014. The Cabinet's challenge is to maintain the level of service provision despite the shrinking budgets, by operating more flexibly and efficiently.

More than three quarters of the personnel in the central government sector are working on policy implementation and service provision to citizens and companies. For citizens and companies, government agencies are often the face of the central government sector. The 'Central Government Sector Reform Agenda' names three fields in which

central government can still improve implementation: property, the personal records database and digitisation.

The land and buildings of the central government represent a high social and financial value. In order to optimise this value, each service that owns property draws up a property portfolio strategy each year. A pilot project was performed in 2014 for the realisation of more connection between central government and the other tiers of government. The central government must also rely on cooperation with other tiers of government for the rezoning and development of the property. For that reason, partnership agreements have been and are being contracted with municipal authorities where necessary. This cooperation at the municipal and provincial level should lead to efficient and effective use of (superfluous) central government property.

In the organisational field, the merger of the Government Buildings Agency, the Defence Property Service, the Central Government Property and Development Company and the Central Government Property Directorate to form the Central Government Real Estate Agency (RVB) has been realised. This merger will lead to an efficient and effective real estate organisation. The savings potential is estimated at €25 million. An important next step is the administrative merger of the above services to form a single agency.

The Netherlands has 13 personal records databases containing information for the government on citizens and companies. The existing system has become complex over the years. There are opportunities to save costs, reduce administrative costs, address fraud and improve the service provision. These opportunities were investigated in more depth within one of the 'Central Government Sector Reform Agenda' projects.

The Cabinet's ambition is that the central government sector should operate

entirely digitally in due course, both in service provision to the public and within its own organisation. This will lead to better and faster service provision and will save costs. Digitisation represents a major transition which will only have a chance of success if we think from the point of view of the user. In addition to the user-friendliness and accessibility of the facilities, it will mean that the users have confidence in the security of the system and know which data the National Digital Government Commissioner holds. The National Digital Government Commissioner was appointed on 1 August 2014 to draw up a programme, as a broad director, which will be implemented by all government bodies (other tiers of government, implementing organisations and the central government). The programme is aimed at creating a government-wide infrastructural base of a digital government, now and in the future.

Part of the 'Central Government Sector Reform Agenda' is a project to strengthen the role of supervision within the central government sector. A number of incidents in fields with government supervision show the need for good supervision of public interests. The inspectorates aim for better cooperation in product supervision, the development of instruments for mutual assessment of inspection reports and a uniform publication of inspection reports, and the response term for this. They will also consider whether the positions of the inspectorates, which currently still differ, can be harmonised. This also provides a better assurance of independence in the performance of tasks. Finally, the inspectorates will consider the harmonisation of the instruments of the inspectorates. This will make the mutual cooperation simpler and provide for more unity in relation to the public. The Minister for Housing and the Central Government Sector presents an Annual Operations Report in May of each year, in which he or she provides an insight into developments in this field.

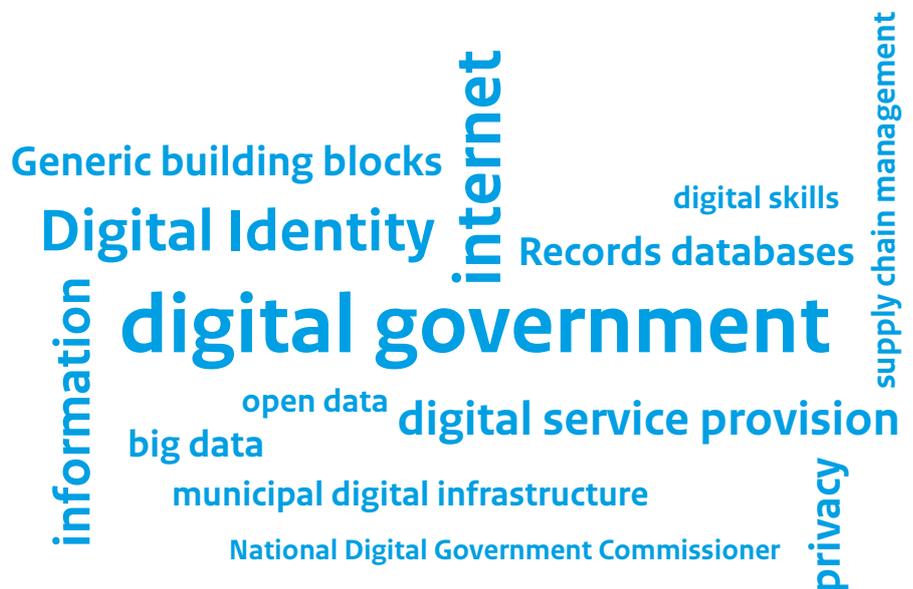
9.4 Digital government

BY MAARTEN HILLENAAR EN ESTER DE JONG

The digital government, or 'e-government', uses the possibilities of ICT and the internet in its service provision to citizens and companies. Thanks to the digital government, citizens and companies can request licences, submit tax returns or obtain information from a government organisation without needing to use paper forms, send post, or travel to a counter to obtain a leaflet. The underlying aim of this is to improve the quality of service and information with the use of new technologies, which will lead to a better relationship between the government, citizens and companies. In addition, thanks to the more efficient and effective organisation of administrative processes of government organisations, tax funds will be saved.

In 2013 the Dutch government stated in the 'Digital Government Vision Statement' that citizens and companies must be able to settle all matters with the government digitally. The development of the digital government has already been underway for far longer. In 1994 the Netherlands, as one of the first countries in Europe, started a development programme known as the 'Electronic Highways Action Programme'. The 'Digital Government Action Programme' followed in 1998. These actions were aimed firstly at publishing general public information from government organisations on websites and in digital theme counters quickly followed by the development of systems for digital transactions. Groningen was the first municipal authority to make it possible to notify a change of address and, in 1998, 1 million citizens sent digital tax returns to the Tax and Customs Authority.

In the years thereafter, different government bodies and agencies developed digital services separately. The increasingly large volumes of digital transac-



tions gave rise to a need on the part of the government organisations for a means to determine the identity of citizens. DigiD was developed under the management of the Tax and Customs Administration. DigiD stands for Digital Identity and is a personal combination of a user name and password. In a short space of time, DigiD grew to become the main way for citizens to identify themselves to government organisations via the internet. As a result, DigiD was the first 'generic' building block for the communal digital government in 2004. From 2008 the three tiers of government and government agencies worked together on a structural basis through the 'National Implementing Programme for Service Provision and E-Government' (NUP). The aim was to control fragmentation in the development of digital services by the different government bodies and to work together on generic building blocks such as the government records databanks.

When government organisations wish to share the information that they record (such as the name, address, town and telephone number) on citizens with each other, it is not necessary for different organisations to save the same information in their own systems separately from each other. With a shared digital infrastructure, citizens do not continually need to supply the same information if they make a request at a government organisation, and government organisations also save money by sharing information. In this way, government organisations work together in information chains that cut right across the tiers of government. Linking files makes continual attention to the privacy of citizens essential. The government may only use personal data for the purpose for which they have been provided, except where investigations of penal offences are involved. The Personal Data Protection Board closely ensures that government organisations comply with this condition.

The digital government also produces a great deal of valuable and interesting data and information that does not relate to individual persons. As far as possible, the government makes its own databases freely accessible and promotes the use of these 'open data'. Citizens and companies can use open data to create valuable new applications. The app Buienradar uses data from the Royal Netherlands Meteorological Institute (KNMI), for example. The Weetmeer website provides information on neighbourhoods and municipal authorities in the Netherlands, using data from sources including Statistics Netherlands (CBS), the Election Council and the Land Registry. With open data, the government makes new initiatives in the market possible. In this way, new forms of service provision arise, involving a different relationship between the private sector and the government: the government makes data available on which market parties base business models.

The digital government offers many possibilities, but also raises a number of new points for attention. For example, people for whom the access to the digital government causes problems because they do not have a computer with an internet connection or do not have the necessary computer skills. Or citizens who experience problems if government agencies have recorded their details incorrectly. Through the cooperation in chains, it can be difficult for citizens to know which institution they can contact in order to have their data corrected. The National Ombudsman makes these issues visible and calls for attention to the distance that can arise between the 'system world' of the digital government and the daily lives of ordinary citizens.

Another point for attention is the security of the government's systems. In 2011 DigiNotar – a company that provided security certificates for a large number of government websites – became the victim of a hacking attempt. As a result, these websites were declared insecure and citizens were advised not to use digital government services for a few days. The vulnerability of government organisations was made clear at a stroke.

As already mentioned, privacy is a point for attention. The government has many data on its citizens and is increasingly able to link the data. For example, fraud profiles in which citizens are 'labelled' in supervisory processes are based on the principles of Big Data. People feel (unfairly) stigmatised by this and regard it as an invasion of privacy. At the same time, supervision does become more effective. How should dilemmas of this kind be addressed?

Since the mid-1990s, work on the generic building blocks has taken place in different forms of alliance. The three tiers of government (central government, provincial authorities and municipal authorities) are autonomous in the pursuit of their own policies with regard to information and digitisation. In 2014 a special government commissioner was appointed in order to perform more central governance over the implementation, the use and the further development of the Generic Digital Infrastructure: the National Digital Government Commissioner, or 'DigiCommissioner'.

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