Bribery & Corruption 2026

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Brief overview of the law and enforcement regime

Bribery of civil servants and judges is prohibited under articles 177, 178, 363 and 364 of the Dutch Criminal Code (DCC). Anyone who offers a public official a gift, service or promise with the intention to induce him to act, or to refrain from certain acts, in the performance of his office, is punishable under article 177 DCC. It is also punishable if the gift, service or promise is offered as a result of or in relation to an act carried out by the civil servant or refraining to act in his current or former office. The civil servant is punishable for accepting or requesting such a gift, promise or service if he knows or should reasonably suspect that it is done with the intent to undertake or refrain from an act in the performance of his current or former office under article 363 DCC. Since 2001, criminal liability exists regardless of whether the act or omission is in violation of the civil servant's duty. Also, it is not required that the attempt was successful. Bribery of judges to influence their decision is punishable under article 178 section 1, with bribery aimed at obtaining a conviction in a criminal case being considered an aggravated offence under section 2. Naturally, the judge is also criminally liable (364 DCC).

The term 'civil servants' is not narrowly defined or restricted to an employment law context. It has been determined by law to include all members of representative bodies, the armed forces and arbitrators (84 DCC), as well as persons in the public service and judges of a foreign state or of an organisation under international law (178a and 364a DCC). Well established case law of the Dutch Supreme Court defines the term even more broadly as anyone who is appointed under the supervision or responsibility of the government in a position that is undeniably of a public nature, in order to carry out some of the powers of the Kingdom or its agencies. Therefore, employees of private organisations may, in certain cases, also qualify as civil servants for the purpose of Dutch anti-bribery legislation.

Commercial bribery is prohibited under article 328*ter* DCC. Any former, current or future employee or agent who accepts or asks for a gift, promise or service in deviation of his duty is punishable, as is anyone offering a gift, promise or service of such a nature or under such circumstances that he should reasonably assume the agent or employee is acting in deviation of his duty. Acting in deviation of duty has a broad definition, as it legally includes concealing against good faith a request for or acceptance of a gift, promise or service from his employer. In addition, bribery of persons in relation to their own or their employer's legal duty to provide information on telecommunication to the justice or police department or cooperate with telecom interception or recording is also punishable for both parties (328*quater* DCC).

The Public Prosecution Service has the monopoly on criminal prosecution of bribery and corruption. Bribery and corruption of public officials are usually dealt with by the National Prosecutors' Office (*Landelijk Parket*), a department of the Public Prosecution Service that fights international organised and subversive crime. This often follows on from the investigation of the National Criminal Investigation Department (*Rijksrecherche*), an independent body which investigates possible cases of criminal conduct within the government. Suspicions of foreign bribery and bribery of non-government officials are usually dealt with by the Prosecutor's Office for Fraud, Environmental Crime and Asset Confiscation (*Functioneel Parket*). This will often follow on from the investigation of the Fiscal Intelligence and Investigation Division (FIOD) or a specialised fraud unit of the National Police. The Public Prosecution Service has appointed specialised prosecutors to coordinate the approach to bribery cases.

Bribery of civil servants is punishable for both parties involved (the payer and the receiver), with a fine of up to €103,000 for individuals and/or up to six years' imprisonment. For corporate entities, the maximum fine is €1.03 million or, if that is not an appropriate punishment for offering a bribe in an individual case, up to 10% of annual turnover (23 section 7 DCC). If certain government officials such as secretaries of state, mayors or members of national or municipal representative bodies accept bribes, their maximum sentence is increased to eight years' imprisonment (363, section 3 DCC). Bribery of a judge with the intent to exercise influence over the decision in a case is punishable with up to nine years' imprisonment – or even 12 years if the bribery is aimed at obtaining a conviction in a criminal case (178 DCC with regard to active bribery and 364 DCC with regard to passive bribery). In addition, the persons involved may be disqualified from their ability to hold certain offices or professions. The maximum penalties for parties involved in commercial bribery are imprisonment for up to four years, or a fine of up to €90,000 for individuals and up to 10% of annual turnover for corporate entities.

The aforementioned imprisonment term and fine are not mutually exclusive and may be combined. If multiple offences occur, their maximum sentences may accumulate to a certain extent. In addition, the government may confiscate criminal proceeds which, according to the policy of the Public Prosecution Service, could be the entire profit made on an engagement gained through bribery. Perpetrators who received monetary compensation for their act or omission may be prosecuted for money laundering as well, if they knew or should have reasonably suspected that they had handled or obscured an asset that was obtained illegally. Other related offences such as tax offences or forgery may also be separately prosecuted.

In practice, court sentences in bribery cases are usually lower than the maximum penalties. The sentencing guidelines for judges (LOVS) contain a general fraud section that also applies to bribery. These guidelines are connected to the financial disadvantages those fraudulent acts caused to others, and range from community service for disadvantages of up to €10,000, to the maximum prison sentence permitted for the specific offence for disadvantages of over €1 million. Within this framework, courts may take into account mitigating or aggravating factors related to the crime, the suspect, or the way in which the court proceedings advanced (delays, for example). In practice, courts may also resort to community service, fines and/or conditional prison sentences if they find that the facts and circumstances do not warrant a term of unconditional imprisonment.

Many bribery cases against corporate entities do not end up in court, as companies often prefer to settle with the Public Prosecution Service in order to avoid negative publicity and damage to their reputation as a result of lengthy criminal proceedings. Out-of-court settlement is possible for criminal acts with a maximum penalty of six years or under. According to the Guidelines from the Public Prosecution Service on handling large settlements, introduced in September 2020, a minimal requirement for out-of-court settlements is that remedial action has been taken and an adequate compliance programme was put in place or enhanced. The company must acknowledge the facts that led to the settlement, but a formal admission of guilt or assent to the charges is not required. Over the last few years and in the case of large

settlements, settlement agreements together with a statement of facts are published. Furthermore, a press release is issued in which it is explained why a settlement in a particular case is deemed appropriate and a public court hearing is not necessary. Both the statement of facts and the press release are a form of public accountability. According to the policy of the Public Prosecution Service, a large settlement is a settlement that contains a fine of more than €200,000 or has a total value (including disgorgements) of more than €1 million (including confiscation of unlawfully obtained benefits, the value of objects liable to forfeiture which the suspect renounces, and compensation for damages). The Public Prosecution Service may agree with the company upon external or internal supervision over the enforcement of the settlement agreement, either by other enforcement authorities (e.g. the Dutch Central Bank or the Dutch Authority for the Financial Markets), an appointed monitor, or by regular reporting to the Supervisory Board. In principle, the policy is to settle with the legal entity whilst still prosecuting the individuals in charge. Therefore, settlements in criminal bribery cases do not always constitute the end of the overall prosecution.

The overall impression is that settlement amounts far exceed the fines and confiscation of criminal assets that a court would be likely to impose. This situation does not seem to have been significantly curbed with the introduction of the Independent Review Committee by the Public Prosecution Service. In September 2020, the committee was introduced as an interim measure, in response to a growing call for court oversight to regulate the settlement practice, increase transparency and accountability, and try more prominent bribery cases in court (in the public eye), to ensure that multinationals are held to the same standards of justice as other parties. The committee consists of a former judge, a professor of criminal law and a former Public Prosecutor. It hears both the Public Prosecution Service and the defence. In the case of positive recommendation, the settlement offer continues to the Board of the Procurator General for final approval. In the case of a negative recommendation, the case is referred back to the Chief Public Prosecutor to issue a new prosecution decision. A formal proposal to implement judicial oversight of out-of-court settlements has yet to be considered before Parliament. Although discounts for self-reporting and full cooperation in international bribery cases have been introduced in a published settlement in 2021, they are unlikely, in their subsequently published form, to provide much financial relief for companies. We will expand on this issue later.

In 2024, the Public Prosecution Service revised its Guidelines on handling foreign bribery cases. The revised Guidelines have not yet resulted in an increase of investigations into foreign bribery. Of note is the position on prosecuting facilitation payments (see below). The Guidelines also warn that the use of intermediary partners (representatives or consultants) does not indemnify the company, as it should be aware that such parties are often used for facilitating bribes. According to the Public Prosecution Service, being insufficiently vigilant as to the nature and activities of the intermediary parties could result in criminal liability as well. It appears that this wording is more stringent than the underlying bribery legislation, which requires, as a minimum for criminal liability, that the company consciously accept a considerable chance that bribery could take place. Being insufficiently vigilant is not, in itself, criminal behaviour.

Overview of enforcement activity and policy during the last year

The year 2024 was a remarkable year with regards to Dutch anti-corruption policy, driven by recognised gaps in existing legislation. Early in 2024, the Public Prosecution Service indicated to the Ministry of Justice that Dutch legislation provides insufficient legal possibilities to prosecute officials and politicians for corruption. The direct cause was a corruption investigation into former European Commissioner Neelie Kroes following the Uber Files, which revealed how she lobbied on behalf of Uber with Dutch ministers and subsequently obtained a lucrative position at Uber's headquarters in San Francisco. The Public Prosecution Service declined to pursue the case because Dutch legislation was deemed insufficient.

This prompted parliamentary questions in February 2025 regarding the call for expanded anti-corruption legislation.

In response to concerns from the Public Prosecution Service and the National Criminal Investigation Department, the government presented a comprehensive National Anti-Corruption Approach on 20 June 2025. The approach rests on four pillars: first, a National Risk Assessment on Corruption commissioned from the WODC (the Research and Data Centre of the Dutch Ministry of Justice and Security), with results expected in early 2026 to guide new policies and legislative proposals. Corruption risks are being placed on the agenda with public and private partners, and organisations are encouraged to conduct internal corruption analyses. Second, strengthening government process resilience through stricter ICT authorisation management, protective monitoring, and resilience scans through RIECs (regional partnerships between government, law enforcement and private sector organisations that combat organised crime), with specific attention given to identity document issuance and protecting officials against criminal pressure. Third, increasing private sector resilience, particularly in logistics, with companies urged to compartmentalise processes, implement logging and monitoring, and develop resilience programmes. Fourth, effective criminal law intervention through €5 million annual investment in the Fiscal Intelligence and Investigation Division, the National Criminal Investigation Department, the Public Prosecution Service and the judiciary, expanding investigation capacity and harmonising corruption case registration across the police and these government bodies to enable annual statistics.

On 13 December 2024, the Public Prosecution Service published the Guidelines on Self-Reporting, Cooperation and Self-Investigation, effective 1 January 2025. The Guidelines provide legal entities with penalty reductions of up to 50%: 25% for self-reporting; and 25% for full cooperation. Self-investigations may also influence discount percentages. Preliminary exploratory discussions with the Public Prosecution Service are possible, even anonymously. However, strict conditions apply: entities must cooperate voluntarily, completely and in a timely manner, adopting proactive attitudes and reporting possible criminal offences in clear, structured written form to the investigating Public Prosecution Service. While providing clarity, reservations exist: maximum reduction requires maximum effort with high costs and uncertain outcomes, self-reporting entails risks for individuals; and the Public Prosecution Service retains broad discretion in interpreting requirements and determining penalty amounts.

Law and policy relating to issues such as facilitation payments and hospitality

Facilitation payments and hospitality fall within the remit of the Dutch anti-corruption legislation. Neither the aim nor the nature of a bribe is relevant for criminal liability. There is no minimum pecuniary value for what constitutes a bribe.

The Public Prosecution Service has provided some guidance on whether prosecution for a bribe is appropriate or not. Among the many relevant factors listed are, in short: who initiated the gift (if the civil servant did, this is more reason for prosecution); the value of the gift; the extent to which the public organisation meets the prescribed integrity policy of the Civil Servants Act; the extent to which the gift is socially accepted; whether acts were contrary to the behavioural code within the organisation; awareness by the civil servant of the illegality of his act; concealment of the gift; the incidental or structural character; and the relationship between parties.

Until 2020, the Public Prosecution Service had adopted the policy that it would not conduct more rigorous investigation and prosecution in the cross-border context than called for by article 5 of the OECD Convention. As such, facilitation payments in foreign countries would generally not lead to prosecution. However, the revised Guidelines on foreign bribery of 2020 removed this restriction, thereby allowing for prosecution of facilitation payments as well. Whether the bribery is a structural part of conducting business is now (among other factors) also a consideration in how a case should be dealt with (see below). In 2024, no cases in which the new Guidelines played a role have been published. We therefore venture to suggest that prosecution regarding foreign bribery has not been especially vigorous.

Key issues relating to investigation, decision-making and enforcement procedures

A legal framework for self-reporting and plea-bargaining has been implemented in the Netherlands, in addition to negotiating out-of-court settlements as referred to above. Out-of-court settlements are not admitted in cases in which a prison sentence will be imposed, or is desired by the prosecution. Only the court is permitted to impose prison sentences. From 2021 onwards, the prosecution and the defence experimented in various cases trying to reach a 'plea bargain-like' agreement, which afterwards would be presented to the court. In recent years, the practice of reaching plea bargain-like agreements between the prosecution and defence has gained more acceptance in the Netherlands. While various courts have rejected these agreements because they could not agree to the outcome, courts now frequently accept such arrangements. Although the risk remains that defendants may have to stand trial after an agreement has been rejected, having already given up a great deal of their defence during negotiations with the prosecution, this occurs less frequently as the practice has become more established.

Key considerations for the Public Prosecution Service in deciding how to deal with a foreign bribery case are (as set out in its Guidelines): the value of the gift, promise or service; whether bribery was a structural part of conducting business; involvement of influential or prominent civil servants or politicians or their direct relatives; whether the bribes were paid out of public or charitable funds; the damages from the bribe (for the foreign country); the level of market distortion; recidivism; and the options for further investigation and successful prosecution. In addition, self-reporting, cooperation and transparency are relevant to resolution and to establishing the penalty to be levied.

The Public Prosecution Service has a policy of accompanying bribery cases with a demand for a confiscation order if the profit is valued above €500. We note that in the guidelines of the Public Prosecution Service, bribes are not subtracted from illegally obtained profit when calculating the total demand for a confiscation order or disgorgement. This position is contested by defence counsel in several cases, but has not yet been decided on by the Supreme Court.

With regard to whistleblowing, we note that every employer that employs 50 people or more is obliged to have an internal reporting procedure for abuses under the Whistleblowers Authority Act. Corporate governance codes also require listed companies and those in specific sectors (e.g. the cultural, healthcare and education sectors) to have reporting procedures. Companies may formulate their own internal reporting procedure that regulates how whistleblowers can report, what happens with the report and what protection is given to whistleblowers.

An employee who makes a report of an abuse in the correct manner may not be retaliated against for that reason. Complaints by the whistleblower of being retaliated against may warrant an investigation by the Whistleblowers Authority, civil liability and administrative fines. An employee who does not correctly follow the internal reporting procedure can neither claim protection against disadvantage nor request help from the Whistleblowers Authority. Therefore, companies can uphold the rights of a whistleblower while safeguarding their own interest by setting up a carefully thought-out reporting procedure.

It should be noted that in 2019 a new bill was introduced into Parliament to change the Whistleblowers Authority Act, following the European Whistleblower Directive. Following the implementation in 2023, whistleblowers nowadays are no longer obliged to always report irregularities within the company/organisation first.

Overview of cross-border issues

According to the Guidelines on handling foreign bribery cases, the Public Prosecution Service will decide whether prosecution for foreign bribery is appropriate based on its own applicable rules and principles, without consideration of the national economic interest, the effect on relations with other states and the

identity of the natural or legal entity involved (article 5 of the OECD Anti-Bribery Treaty). Based on the current Guidelines for handling foreign bribery cases, the Dutch anti-bribery approach may now be more rigorous than required by the OECD with regard to, amongst others, prosecution for facilitation payments (see above).

The Dutch government is generally known to be highly responsive and cooperative with regard to requests for legal assistance by foreign governments. Cooperation with the US Department of Justice, in particular, has led to high fines and disgorgements in the past.

The Netherlands are apparently more reluctant to start their own cases on foreign bribery. In the period 2018–2021, the government opened 11 investigations, commenced two court cases and concluded three investigations with some form of penalty. Given that the country was responsible for 3.1% of global exports during that period, that does not seem adequate. These numbers brought Transparency International to the conclusion in its 2022 Exporting Corruption Report that enforcement of foreign bribery by the Netherlands is limited.

Corporate liability for bribery and corruption offences

As is clear from the legal framework described above, legal entities as well as the natural persons involved, may be prosecuted for bribery (51 DCC).

The legal entity may be criminally liable if (a) it is the party to which the violated norm applies, or (b) a relevant criminal act or omission of a natural person can be reasonably attributed to the legal entity. Attribution is possible if the conduct has taken place within the *sphere* of the legal entity. Important factors in that decision are: if it is an act or omission of a person working for the legal entity; if the act has taken place within the normal course of business of the legal entity; if the act has benefitted the legal entity; if the legal entity had the power to decide whether the act took place; and/or if such or comparable conduct was accepted or tolerated by the legal entity in practice. For this purpose, acceptance includes omission on the part of the legal entity to take due care in order to prevent the conduct.

Article 51 section 2 sub 3 DCC explicitly states that the legal entity and the actual director/officer responsible can be prosecuted for the same facts. In practice, often both (or neither) are prosecuted. Criminal proceedings may be instituted against natural persons who have ordered the commission of a criminal offence as well as *actual directors*, which may be other legal entities (51 section 2 DCC). In case law, four criteria are established which lead to *actual directing*, and upon which managers, officers and directors have criminal liability: (i) the officer must have the authority to intervene; (ii) the officer must have been 'reasonably required' to undertake measures to prevent the illegal act; (iii) despite this, he must have neglected to take these measures; and (iv) he must have at least 'consciously accepted a significant chance' that the illegal acts would occur.

As noted above, the Guidelines of the Public Prosecution Service on foreign bribery state that being insufficiently vigilant as to the nature and activities of intermediary parties could result in criminal liability as well. This wording appears to be more stringent than the current bribery legislation. Criminal liability requires, at a minimum, that the company consciously accept a significant chance of bribery taking place. This minimum requirement is generally carefully upheld in court decisions. We would argue that failure to take adequate precautions by itself would be insufficient to fulfil this required minimum of intent, contrary to the position that the Public Prosecution Service seems to be taking. Naturally, however, vigilance is advised in order to minimise the chances of prosecution.

Proposed reforms / The year ahead

The National Anti-Corruption Approach presented on 20 June 2025 will drive 2026 developments. National Risk Assessment results expected in early 2026 will be decisive for new policies and legislative proposals,

providing evidence-based direction for targeting corruption-sensitive areas. Policy will be continuously refined based on current insights from the assessment and studies from the Threat Assessment on Undermining and Strategic Knowledge Center for Undermining Crime (Kenniscentrum Ondermijnende Criminaliteit). The €5 million annual investment should increase investigation capacity and prosecutions, while harmonised registration enables annual corruption statistics for the first time. Increased enforcement focus on transport and logistics sectors is expected given the high corruption risks identified. Companies in these sectors should anticipate greater scrutiny and implement recommended resilience measures.

Following the Public Prosecution Service's call for expanded legislation based on the Neelie Kroes case, proposals are anticipated in 2026 addressing gaps where current law proved insufficient to prosecute high-level official corruption. The Bill on Strengthening Criminal Law Approach to Undermining Crime II was adopted by the House of Representatives on 2 October 2025 and awaits Senate consideration. The bill aims to strengthen general criminal law instruments focused on four main lines: prevention; breaking up criminal networks and business models; punishment; and protection.

The conclusion of EU Anti-Corruption Directive negotiations may significantly impact Dutch legislation in 2026. Possible new offences include trading in influence or illicit enrichment, depending on the directive's final text. Maximum penalties and statute of limitations rules will be adjusted if the EU directive requires it. As it currently appears, the new directive will also include criminalisation of trading in influence.

On 4 July 2025, the government reported GRECO's conclusion that the Netherlands insufficiently met 16 Fifth Evaluation Round recommendations, with only seven satisfactorily implemented. Regarding ministerial integrity, limited progress occurred. Mandatory periodic public financial interest declarations remains unimplemented, as does supervision and sanction mechanism development for the code of conduct. Positive steps include appointing two former ministers as confidential advisers and progress on the post-employment positions bill. For National Police and Military Police (*Koninklijke Marechaussee*), six of eight recommendations are implemented. Remaining challenges concern gifts and benefits procedures and periodic financial interest reporting for Marechaussee top management. Given insufficient compliance, GRECO invited the Council of Europe Secretary-General to write the Foreign Minister emphasising determined action importance. The Netherlands must report progress by 31 March 2026.

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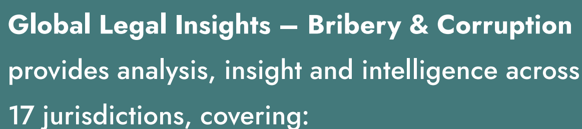

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- A brief overview of the law and enforcement regime
- An overview of enforcement activity and policy during the last year
- Law and policy relating to issues such as facilitation payments and hospitality
- Key issues relating to investigation, decision-making and enforcement procedures
- An overview of cross-border issues
- Corporate liability for bribery and corruption offences
- Proposed reforms/the year ahead

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