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The public role of the prosecutor: four innovative initiatives

Ladies and gentlemen, dear colleagues

What is it that we public prosecutors do? I guess in some countries it is obvious: prosecutors prosecute'. I admit: it is an integral and essential part of our work to charge someone with a criminal offence and then to present the case in court.

But that is only part of our duty. We are not just prosecutors, we are **public** prosecutors. And that public role requires us to be permanently aware of our position and responsibility within society. We have to find our way in an ever-changing world that consists of many relevant actors and partners: law enforcement agencies, the judiciary, the political system, private enterprises, the media, defendants, victims and of course the general public. And this orientation on society is not just a form of navigation, to know where we are. To fulfill our duty we have to interact with society. By ensuring that criminal law is applied, we promote justice and security within society. A public prosecutor can never stand apart from society. We too are the public.

The consequence of this complex, multi-dimensional interplay with society is that our relevant playing-field will always be changing. Therefore we must constantly adapt and innovate in order to be able to deliver what society expects from us.

Today I would like to present to you four areas in which we, the Netherlands Public Prosecution Service, innovate in order to keep up with the demands of society. These four examples cover different dimensions of the 'public' aspect of our work as public prosecutors.

To sum them up in catchphrases:

- 'In the name of the public'
- 'With the public'
- 'For the public' and
- In the eye of the public'

First of all: '**in the name of the public**'.

In my country there is no possibility of private prosecution by citizens or companies.

Only the public prosecution service may bring a case to criminal court. That means that we have a great responsibility towards society. If we mess up an important case, no other institution has the power to pick up where we have failed.

As a consequence we owe it to the public to make sure that the quality of our work meets the highest standards. In the recent past there have been some cases in which errors have been made, As a result in at least two case persons whose innocence has later been established, have been tried and convicted. And in several trials people suspected of serious crimes were set free because of flaws in the investigation or pre-trial phase. These 'wake-up calls' have led to a series of initiatives to professionalize the quality of our work.

In this context I mention for instance the creation of so-called 'chambers of reflection'.

Prosecutors who are in charge of an important case, get the opportunity to discuss the trickier aspects in a meeting with experienced colleagues and/or external experts, for instance in the field of forensics. Within a relative short time these chambers of reflection have become a generally accepted phenomenon. Fortunately there is no hesitancy whatsoever from prosecutors when it comes to sharing their dilemmas with colleagues from other offices.

These chambers operate on the national and regional level. Locally there are several instruments to promote prosecutorial professionalism. All sensitive and/or complex cases

in a district are monitored. Regular meetings are scheduled in which experienced colleagues of the prosecutor in charge of a case scrutinize the legal arguments and the evidence. By the way, such sessions prove that prosecutors can be just as critical and outspoken as the best defense lawyers.

An example of the way in which we use internal debate and scrutiny to raise the quality of our work is the current Wilders-case in my district The Hague. As some of you might know, mr. Wilders is a national politician who is very outspoken on themes such as immigration and the influence of Islam in the Netherlands. Last year during a public event he seemed to go beyond what is permissible under the freedom of speech. Thousands of citizens filed criminal complaints. The legal question then was whether Wilders had indeed committed hate speech-related offenses . In view of his status as a member of parliament and the importance of the freedom of speech, especially for opposition politicians, this was both a complex and an important question. In order to come to a well-founded decision, we did not only organize a so-called chamber of reflection with prosecutors and legal specialists,; we also asked for internal legal opinions of both the specialist anti-discrimination unit of the Prosecution Service and of our Bureau for criminal law studies. In the end we decided that the statements concerned may indeed be considered hate speech. At present we have invited mr Wilders to give a statement as a suspect. The next question is: will we present this case before a judge?

Society never sleeps and neither should the Public Prosecution Service. In a special cooperation with Microsoft we have developed tailor-made apps that give our prosecutors 24/7 access to all the digital tools, files and information they require to do their job. Wherever the prosecutor is – in court, at the office, at the police station or at home, he or she has secure access to all relevant up-to-date information.

The second dimension of our work as public prosecution service can be summarized by the phrase ‘**With** the public’.

In the Netherlands there is a policy list of themes that get priority when it comes to criminal law enforcement. This list has been drawn up by the public prosecution service, the police, and the ministry of Security and Justice. Current priorities are fraud,

cybercrime, vice crime, high impact crimes, such as burglary, violence and street robbery, organized crime and jihadism. It is clear that none of these crimes can be dealt with through criminal law enforcement alone. That is why we cooperate intensively with other partners such as the Fiscal Service, local authorities, the private sector, NGO's etc. to ensure that all through society barriers are put up against these types of crime.

An example of this approach is our current strategy against human trafficking. My sister Anna happened to be the first independent National Rapporteur in the world on human trafficking. Through her I became aware that this type of crime is not just one of the activities that organized crime tends to engage in. Forced prostitution is a truly abhorrent modern form of slavery that denies women their most elementary human rights. In the first decade of this century we came to realise that in order to eradicate human trafficking we needed an integral strategy that went clearly beyond the usual scope of criminal law enforcement.

We showed local administrators case files to confront them with these deeply inhumane practices that were taking place almost under our eyes. Together we discussed which partners. How can we eliminate the conditions under which human trafficking can foster? The approach we came up with was unorthodox. Not only did we cooperate with partners that are unusual from a law enforcement-viewpoint, such as the hotel industry, chambers of commerce and NGO's, we also took the step to share sensitive and private information with them. Although the 23 partners involved had different perspectives, duties and responsibilities, our common goal was crystal clear: eradicate human trafficking from our society. This integrated multi-organizational approach has now become the standard for dealing with human trafficking in the Netherlands. This way, by working with the public, we are getting results that we never could have achieved, had we limited ourselves to criminal law enforcement alone. By the way, the Kennedy School of Government of Harvard University is currently developing our integral approach into a case study for training prosecutors and government officials.

‘For the public’. That is the most obvious element of the four. Criminal law enforcement is not a theoretical activity. In recent years the legislator and the prosecution service have paid much attention to the position of the victim in criminal proceedings. An important part of that development was focused upon communication. We have to inform the victims timely, respectfully and adequately. For that purpose all our prosecutors have received training in communication with victims. Each of our local offices has a prosecutor who is responsible for the flow of information to victims.

A good example of the importance of communication with victims is the Robert M.-case. The case concerns sexual abuse of children on a scale that was unheard of. Robert M. worked at a day-care center for small children in Amsterdam. He made use of that position to abuse approximately 80 children, from babies to three year-olds. He filmed all this and subsequently shared the recordings with others through the internet.

Please note that this month, November 2014, we celebrate the 25th anniversary of the international Convention on the Rights of the Child. My personal motivation why I became a prosecutor was to achieve justice for those who are unable to stand up for their rights, for instance young children. This Robert M-case illustrates how necessary it is that we stand up for persons who are unable to defend themselves.

Because of the nature and the scale of the case we decided to explore a new way to communicate with the parents of the victims. We had meetings with all the parents, together with the local authorities and aid organizations.

We have offered them a digital platform that offered access to current information on the case. On the platform they could express themselves or establish contact with us, the police or with care organizations. When the trial against Robert M. took place, we did all that was legally possible – and a little bit more – to enable those parents who felt they needed to, to speak in court about the impact of the crime.

Our experience is that this approach has worked. A positive side-effect to this terrible case is that our intensive victim-oriented strategy seems has helped the legislator to further improve the position of victims in general.

The last aspect of the word ‘public’ I would like to discuss, has to do with public scrutiny. We all work **under the eye of the public**. That is of course the case during a trial in open court. But nowadays in our full-time news society all phases of a criminal proceeding are being covered. If not in the traditional media, then at least in the social media.

A side-effect of this constant visibility, is that we as prosecutors must be seen as impeccable when it comes to integrity issues. Our daily job is essentially to blame others for the fact that they broken the law. That means that we cannot afford to be regarded as less than honest and decent ourselves.

On the other hand, exactly because of the nature of our profession the potential for corruption and breaches of integrity is ever-present. We have far-reaching powers, we take decisions that can have a great impact on the liberty, the financial position or the reputation of citizens and we have access to sensitive information. In terms of integrity-management public prosecutors form a high-risk group.

This means that our organization must continuously and consistently promote and safeguard professional integrity. Last year we have set up a specialized bureau to do exactly that.

To give one example of their activities: they have produced a video with short films that show realistic dilemmas that may occur within our organization. Our local branches use this video to discuss the theme ‘integrity’ in small groups of staff members.

This initiative is part of a wider movement to pay more attention to the insecurities, emotions and integrity issues that come with the job of being a prosecutor. I already told you about our programme that stimulates prosecutors to discuss complex and sensitive cases with colleagues in order to enhance professional quality. Another initiative in this development is to offer psychological care through a professional third party to prosecutors who have had to deal with extreme cases or with violent threats in order to avoid secondary traumatization. Caring about our own professionals as human beings, that too is characteristic of a professional organization.

Ladies and gentlemen,

I have presented four areas in which my organization has innovated in order to be able to perform its role as public prosecution service, with the stress on the word 'public'.

Hopefully some of these examples from the Netherlands have been interesting or even inspiring to you. We are not only prosecutors; we are public prosecutors. This public role brings a great responsibility and a many specific challenges. But on the other hand – and here I speak for myself – isn't this public role exactly what makes our tough job so wonderfully satisfactory?

Thank you for your attention