

## Hans Smedema Affair

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# Obstruction of Justice in the Netherlands: A Case Study of Potential Legal Violations

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## Obstruction of Justice in the Netherlands: A Case Study of Potential Legal Violations



In fact this has already been proven! See...

KLM Co-Pilot King Willem Alexander corrupt blocked my American Asylum against the Netherlands in American Airspace!

Smedema's Allegations of Dutch Government Obstruction

**See for the next Deep Research of this case and the role of the Dutch 'Landsadvocaat':**

The Landsadvocaat's Dilemma: A Case Study in Obstruction of Justice

## Main text of the Study!

This article examines a hypothetical case of obstruction of justice in the Netherlands, where a Secretary-General allegedly interfered with legal proceedings for personal reasons. This scenario involves potential protection from investigation by high-ranking politicians, including the Prime Minister, and the issuance of a Royal decree to block any investigation into the Secretary-General's personal conduct. This analysis will explore potential violations of Dutch Constitutional law, criminal law, and civil law, alongside relevant international laws and treaties, while considering the role of the Dutch Parliament and the broader implications for the rule of law in the Netherlands.

## The Role and Responsibilities of the Secretary-General in the Netherlands

Before delving into the legal analysis, it's crucial to understand the position of a Secretary-General within the Dutch government. The Secretary-General is the highest-ranking civil servant in a ministry and plays a critical role in the Senior Management Board, the highest decision-making body at the civil service level 1. This board oversees policy coherence and coordination within the ministry. In this case, the Secretary-General's position within the Ministry of Justice adds another layer of complexity to the alleged obstruction of justice.

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## Royal Decrees and Their Legality in the Netherlands

Royal decrees are a form of legislation issued by the Dutch government. They possess legal weight and require the signature of the King and countersignature by one or more ministers or state secretaries 2. This countersignature signifies the government's acceptance of constitutional responsibility for the decree. While the King's signature is a necessary formality, no one can sign on their behalf, even in situations of illness or absence 3. Royal decrees fall under ministerial responsibility, meaning ministers are accountable for their content and implementation 4.

### Types of Royal Decrees

There are two main categories of Royal decrees:

- **Orders in council:** These decrees necessitate consultation with the Council of State.

- **Royal Decrees applying to individuals or groups:** This category encompasses decrees appointing mayors or conferring royal decorations 5.

## Limitations on Royal Decrees

It's important to recognize that Royal decrees are not absolute. They are subordinate to Acts of Parliament and international treaties 6. This hierarchy implies that a Royal decree cannot contradict existing laws or the Netherlands' international obligations.

## Historical Context of Royal Decrees

Historically, Royal decrees have been employed for various purposes, including establishing legal procedures and regulations. However, there have been instances where decrees were potentially misused, raising concerns about their potential to circumvent legal processes or obstruct justice 8. This historical context underscores the need for careful scrutiny of Royal decrees, especially when they involve sensitive matters like blocking investigations.

## Can a Royal Decree Block an Investigation?

While Royal decrees can serve legitimate purposes, their use to obstruct justice raises serious legal concerns. A Royal decree that blocks an investigation, particularly one involving potential criminal activity by a high-ranking official like the Secretary-General, could be challenged on several grounds:

- **Violation of the principle of equality before the law:** Article 1 of the Dutch Constitution guarantees equal treatment under the law for all persons in the Netherlands 9. A Royal decree specifically protecting an individual from investigation could be seen as discriminatory and a breach of this fundamental right.
- **Obstruction of justice:** Interfering with an investigation, particularly to protect oneself or others from criminal prosecution, is a serious offense under Article 25 of the UNCAC, which the Netherlands has implemented 10. A Royal decree used for this purpose could be considered an act of obstruction of justice, especially given the recent changes in criminal law and law enforcement legislation aimed at strengthening the fight against organized crime 11.
- **Abuse of power:** Using a Royal decree to shield an individual from legal scrutiny could be construed as an abuse of power by the government, especially if done to protect political allies or for personal gain. This concern is heightened by the broad definition of bribery in the Netherlands, which includes offering gifts or favors after a public servant has acted improperly 12.

# Potential Legal Challenges to a Royal Decree Blocking an Investigation

Several legal avenues could be pursued to challenge a Royal decree aimed at blocking an investigation:

- **Judicial review:** Courts in the Netherlands have the power to review the legality of Royal decrees. If a decree is found to violate existing laws, constitutional principles, or international obligations, it can be declared invalid. This review would likely consider the principles of legality, proportionality, and fundamental rights, drawing on precedents like those involving challenges to executive actions in other jurisdictions 13.
- **Complaints to international bodies:** Individuals or organizations could file complaints with international human rights bodies, such as the European Court of Human Rights, alleging violations of their rights due to the decree.
- **Whistleblower Protection:** The Dutch Whistleblower Protection Act offers protection to individuals who report wrongdoings within organizations 15. This Act ensures that those reporting misconduct are shielded from retaliation. In this scenario, individuals with knowledge of the Secretary-General's actions could utilize this mechanism to report their concerns without fear of reprisal. The "House for Whistleblowers" provides advice and support to whistleblowers, further strengthening this protection 16.
- **Reporting Suspected Abuse within the Central Government:** The Netherlands has a policy for "reporting suspected abuse within central government" 17. This policy provides a formal channel for individuals to report misconduct by government officials, including the Secretary-General.
- **Parliamentary scrutiny:** The Dutch Parliament has the authority to question and hold the government accountable for its actions, including the issuance of Royal decrees. They could initiate inquiries, debates, or even motions of no confidence in response to a decree perceived as obstructing justice.

## The Role of the Dutch Parliament in Overseeing the Government and Judiciary

The Dutch Parliament plays a crucial role in overseeing the actions of the government and ensuring adherence to the rule of law. Its primary responsibilities include:

- **Legislative power:** Parliament collaborates with the government to create laws.
- **Scrutiny of the government:** Parliament monitors the government's implementation of laws and its overall activities 18.

- **Representation of the electorate:** Parliament represents the interests of the Dutch people and reflects public opinion in government policy 18.

Parliament holds the government accountable through various mechanisms, including:

- **Questioning ministers:** Parliament can question ministers about their policies and decisions.
- **Parliamentary inquiries:** Parliament can initiate inquiries into specific issues or events.
- **Motions of no confidence:** Parliament can express its lack of confidence in the government or individual ministers 19.

In the scenario under consideration, Parliament has a critical role in scrutinizing the government's actions, including the issuance of the Royal decree. They can demand explanations, initiate investigations, and potentially take action against the government if it is found to have acted unlawfully or abused its power. However, it's important to acknowledge the potential for political pressure or influence that could affect Parliament's ability to act independently 20.

Furthermore, the Public Prosecution Service (OM) has the authority to impose penalties for a number of common criminal offenses 21. This authority could be relevant in the potential prosecution of the Secretary-General, although the specific charges and procedures would depend on the nature of the alleged obstruction of justice.

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## Potential Political Consequences of a Royal Decree Blocking an Investigation

A Royal decree blocking an investigation into potential misconduct by a high-ranking official like the Secretary-General could have significant political consequences:

- **Loss of public trust:** Such a decree could erode public trust in the government and the justice system, leading to questions about impartiality and accountability.
- **Political instability:** It could trigger political turmoil, with opposition parties and public figures demanding accountability and potentially leading to votes of no confidence or even early elections.
- **Damage to international reputation:** It could harm the Netherlands' international reputation as a country upholding the rule of law and human rights. This damage could be particularly significant given the Netherlands' commitment to international cooperation in fighting corruption, as demonstrated by its use of the UNCAC as a legal basis for extradition with other states 10.

Drawing a parallel to the violation of EU sanctions, the political consequences could include economic repercussions, diplomatic tensions, and damage to the country's standing in the international community 22.

## The Influence of the Monarch on the Dutch Legal System

While the monarch holds a symbolic role as head of state, their influence on the Dutch legal system is limited. The Constitution explicitly states that ministers, not the monarch, are responsible for acts of government 23. The monarch's primary role in the legal system is to sign Acts of Parliament and Royal decrees, signifying their formal assent 2. However, this act is largely ceremonial, and the monarch does not have the power to veto legislation.

## Implications for the Rule of Law in the Netherlands

This hypothetical scenario raises broader concerns about the rule of law in the Netherlands. Obstructing justice, especially by high-ranking officials and with the alleged involvement of political figures, undermines the principle of equality before the law and erodes public trust in the justice system. The potential use of a Royal decree to shield an individual from investigation further raises questions about the integrity of legal processes and the separation of powers.

This case highlights the importance of independent institutions, such as the judiciary and the Parliament, in safeguarding the rule of law. It also underscores the need for robust whistleblower protection mechanisms and transparent procedures for reporting misconduct by government officials. Ultimately, upholding the rule of law requires constant vigilance and a commitment to accountability at all levels of government.

## Conclusion

The hypothetical scenario presented raises serious concerns about potential violations of Dutch law and principles of justice. A Royal decree used to obstruct an investigation into potential criminal activity would likely face legal challenges and could have significant political ramifications. The Dutch Parliament has a crucial role in scrutinizing the government's actions and ensuring accountability. Ultimately, upholding the rule of law and ensuring equal justice for all are paramount in maintaining public trust and safeguarding the integrity of the Dutch legal system. This case

serves as a reminder of the importance of vigilance and a commitment to accountability in protecting the foundations of a just and democratic society.

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This hypothetical question to Gemini Advanced Pro 1.5 with Deep research was of course about the Hans Smedema Affair!

Hans Smedema B. Sc., in forced exile surviving in beautiful El Albir, Costa Blanca, Spain