

Dutch court orders prosecution of former ING boss

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A court in the Netherlands has ruled that Ralph Hamers, the former CEO of Dutch lender ING, should be prosecuted over his alleged role in the bank's money laundering scandal.

The Hague Court of Appeal said in a 9 December judgment that the evidence against Hamers meets the threshold for prosecuting him over his role in alleged money laundering offences that the bank settled in 2018 as part of a €775 million agreement with Dutch prosecutors.

The court ruled that the Dutch Public Prosecution Service (OM) must prosecute the former ING executive, who led the bank from 2013 until June, for the same

violations of the Dutch anti-money laundering law that ING itself allegedly committed. Hamers became CEO at Swiss lender UBS in November.

ING received the largest corporate penalty in the country's history for failing to prevent some of its clients in the Netherlands from laundering hundreds of millions of euros through the bank's accounts between 2010 and 2016, according to the settlement.

The OM said in an emailed statement: "The public prosecutor previously decided in this matter that there was insufficient evidence for a successful prosecution of individuals. The court assesses this differently and orders prosecution of a former top executive. The public prosecutor will follow the court order."

The Court of Appeal said that the OM's decision not to prosecute any individuals in the case undermined public confidence in corporate prosecutions. The court also noted that Hamers declined to answer the court's questions or appear at its hearings.

The court highlighted evidence that Hamers allegedly ignored mounting concerns over the bank's compliance with anti-money laundering laws. This included a series of warning emails that the executive received in 2014 from the bank's head of legal and a 2015 inspection report by the European Central Bank that identified various compliance failures at the bank.

The ruling stems from a challenge launched by Dutch investor Pieter Lakeman in 2018 to contest the OM's decision not to pursue charges against Hamers. Lakeman said in a statement on his website that he is pleased by the court's decision.

Aldo Verbruggen at Lumen Lawyers in Amsterdam said the prosecution of ING's former top executive could make companies in the Netherlands less willing to enter into corporate settlements if they think allegations of wrongdoing will be aired in court anyway. He added that prosecutors will need to show that ING itself violated Dutch law to convict Hamers.

The court declined Lakeman's request to reopen the OM's case against ING itself in a separate ruling also published on 12 December.

UBS said it has "full confidence" in Hamer's ability to lead the Swiss lender, while lawyers for Lakeman and Hamers did not respond to a request to comment.

Counsel to ING declined to comment.

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