

Aan de Voorzitter van de
Eerste Kamer der Staten-Generaal
Kazernestraat 52
Den Haag

**Ministerie van Buitenlandse
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Onze referentie
BZ2411020

Bijlage(n)
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Datum 27 januari 2025
Betreft Nederlandse inzending toetsingscyclus voor de rechtsstaat 2025

Geachte voorzitter,

Mede namens de minister van Justitie en Veiligheid, de minister van Binnenlandse Zaken, de staatssecretaris Rechtsbescherming en de minister van Onderwijs, Cultuur en Wetenschap, deel ik hierbij met uw Kamer de Nederlandse inzending op de vragenlijst van de Europese Commissie (hierna: de Commissie) in het kader van de toetsingscyclus voor de rechtsstaat 2025.

In het jaarlijkse rechtsstaatrapport doet de Commissie verslag van de rechtsstatelijke situatie in de Europese Unie als geheel en in de lidstaten afzonderlijk aan de hand van vier pijlers: 1) justitieel stelsel, 2) corruptiebestrijding, 3) pluriformiteit en vrijheid van de media en 4) andere institutionele kwesties die verband houden met *checks and balances*. Het rapport vormt de basis van het rechtsstaatmechanisme: een instrument waarmee de rechtsstaat in de Unie preventief en structureel gemonitord wordt om in een vroeg stadium eventuele problemen in de Unie te kunnen identificeren, te bespreken en gezamenlijk tot oplossingen te komen.

In de vragenlijst wordt de lidstaten gevraagd welke stappen er worden genomen om opvolging te geven aan de aanbevelingen uit het landenhoofdstuk van het rechtsstaatrapport van 2024. Ook wordt lidstaten gevraagd om significante ontwikkelingen op rechtsstatelijk gebied te melden ten opzichte van de beantwoording van de vragenlijst die in januari 2024 bij de Commissie werd ingestuurd.¹ De Commissie gebruikt sinds dit jaar een meer gestroomlijnde vragenlijst met indicatoren. Daarnaast zal aan het rechtsstaatrapport van 2025 een interne marktdimensie worden toegevoegd. De Commissie heeft daarom een achttal nieuwe vragen opgenomen over rechtsstatelijke kwesties die van invloed zijn op ondernemingen, in het bijzonder kleine en middelgrote ondernemingen, met grensoverschrijdende activiteiten.²

¹ Zie Kamerstukken 2023/24, 21501-02, nr. 2797.

² De toevoeging van een interne markt dimensie werd op 18 juli 2024 aangekondigd in de politieke beleidslijnen voor de nieuwe Commissie 2024-2029.

In de beantwoording van de vragenlijst is rekening gehouden met wat Nederland voorgaande jaren reeds indiende, en wordt nader ingegaan op de aanbevelingen die Nederland in 2024 ontving.³

Ministerie van Buitenlandse Zaken

Onze referentie
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Het (virtuele) landenbezoek van de Commissie aan Nederland zal plaatsvinden op 13 en 14 februari 2025, waarbij de Commissie op ambtelijk niveau zal spreken met de meest betrokken vakdepartementen en met relevante beroepsorganisaties die actief zijn op het terrein van de rechtsstaat. De Commissie is voornemens om, op basis van onder meer de verkregen input, het rapport in juli 2025 te publiceren. Vervolgens worden de horizontale ontwikkelingen op het gebied van de rechtsstaat in de EU tijdens de jaarlijkse rechtsstaatdialog in de Raad Algemene Zaken besproken. De landenhoofdstukken worden tijdens landenspecifieke dialogen in de Raad Algemene Zaken besproken. De eerste landenspecifieke dialoog van 2025 staat geagendeerd op de Raad Algemene Zaken van 28 januari a.s. Daarnaast is de verwachting dat, in lijn met de Nederlandse inzet, ook dit jaar thematische onderwerpen uit het rapport bij de Raad Justitie en Binnenlandse Zaken aan de orde komen. Het kabinet blijft zich er voor inzetten dat het rechtsstaatrappport ook in deze vakraad op structurele basis wordt besproken.

De minister van Buitenlandse Zaken,

Caspar Veldkamp

³ Zie ook de kabinetsreactie op het rechtsstaatsrapport 2024, Kamerstukken, 2024/25, 21501-02 nr. 2953.

European Rule of Law Mechanism: input from Member States 2025 Rule of Law Report

I. Justice system

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the justice system (if applicable):

Recommendation 1: Continue efforts to address shortages in human resources and challenging working conditions in the justice system.

The Dutch government has – in line with the Commission recommendation – continued its efforts to address shortages in human resources and challenging working conditions in the justice system.

The most important measure taken to reduce the shortage of judges is to increase the training capacity. While 80 training places were available annually until 2020, this number has since been gradually increased to 140 places in 2024.

The judiciary is also working on the recommendations of the 'Work Pressure Exploration report'. These recommendations focus on creating capacity and other ways to reduce the work pressure.

A. Independence

- *Appointment and selection of judges¹, prosecutors and court presidents (incl. judicial review)*

The temporary procedure for the appointment and reappointment of court management boards was completed in 2024. After extensive consultation within the judiciary, this procedure has now been officially adopted.

The procedure for appointing members of the Council for the Judiciary has also been reviewed within the judiciary. This review has not resulted in a proposal for modification of this procedure. In 2025 the ministry of Justice and Security together with the Council for the Judiciary, will further explore the options. Hereby will be taken into consideration a passed motion in Parliament which concerns reducing the role of the minister in appointments of members of the Council for the Judiciary and the recommendations of the Venice Commission on this issue.²

The proposal for the prohibition of the simultaneous holding of the office of judge and membership of Parliament is pending in Parliament.³ This ban is intended to ensure that there is a greater separation of powers between the legislature and the judiciary. In addition, this proposal introduces provisions on the possession and reporting of certain financial interests for a specific group of judicial officials. This minimizes the risk of financial conflicts of interest and the risk of improper use of price-sensitive information by judicial officials.

- *Allocation of cases in courts*

As mentioned in last year's questionnaire the application of case allocation code was reviewed by the Council for the Judiciary to see if the case allocation criteria need to be refined. This review was concluded at the end of 2024 and was sent to the Minister for Legal Protection. After reviewing the results and after consultation with the Council for the Judiciary, the Minister for Legal Protection will inform Parliament.

¹ The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts.

² Kamerstukken II 2023-2024, 29279 nr. 845.

³ <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorsteldetails&qry=wetsvoorstel%3A36243>.

- *Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)*

See the first bullet: The procedure for appointing members of the Council for the Judiciary has also been reviewed within the judiciary. This review has not resulted in a proposal for modification of this procedure. In 2025 the Ministry of Justice and Security together with the Council for the Judiciary, will further explore the options. Taking into consideration a passed motion in Parliament which concerns reducing the role of the Minister in appointments of members of the Council for the Judiciary and the recommendations of the Venice Commission on this issue.⁴

- *Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)*

The Ministry of Justice and Security and the Ministry of the Interior and Kingdom Relations continue to work on a bill containing a system for the notification and research of a suspicion of wrongdoing or irregularities within the judiciary and the Council of State (whistle-blower act). The legislative proposal was published for public consultation at the end of 2023. The proposal for the prohibition of the simultaneous holding of the office of judge and membership of Parliament is pending in Parliament (see the answer in first bullet above).

- *Independence of the Bar (chamber/association of lawyers) and of lawyers*

The Ministry of Justice and Security is still working on the strengthening of the supervision of lawyers by the establishment of a single national supervisor ('*Onafhankelijke Toezichthouder Advocatuur*') who will be responsible for the supervision of all lawyers in the Netherlands. This means that local deans will no longer be responsible for supervision in their own district. The establishment of the OTA is still being discussed with the legal profession to ensure the independence of the supervisor.

- *Significant developments capable of affecting the perception that the general public has of the independence of the judiciary*

Significant developments on this issue include the recommendations of the Venice Commission regarding appointment procedures within the judiciary, (see under section C), as well as the recommendations of the State Commission Rule of Law on (the transparency and clarity of) appointment procedures (see under pillar IV) and the rules for ancillary positions and financial interests within the judiciary (see under section A).

B. Quality of justice⁵

- *Accessibility of courts (e.g. court/legal fees, legal aid, language)*

Court/legal fees

In December 2023, the government announced the annulment of the annual indexation of court fees for 2023 (which had been postponed and would have been 10,29%) and the reduction of the indexation of court fees for 2024 from 4,57% to 1,83%. Through this measure, the court fees (with the exception of court fees for civil law cases with claims above 100.000 EUR and court fees in the Netherlands Commercial Court) will be circa 13,5% lower than they would have been otherwise⁶. This measure replaced the proposed Act to reduce court fees ('*Wet verlaging griffierechten*'), which envisioned reduction of court fees by 25%, but had to be withdrawn from parliamentary consideration due to insufficient financial resources after budget cuts in April 2023. Additional measures that had been

⁴ Kamerstukken II 2023-2024, 29279 nr. 845.

⁵ Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

⁶ Kamerstukken II 2023–2024, 29 279, nr. 826.

proposed in the draft Act, changes to the Dutch General Administrative Law Act (*‘Algemene wet bestuursrecht’*) and the Dutch court fees (civil cases) Act (*‘Wet griffierechten burgerlijke zaken’*), have been included in the proposed *‘Verzamelwet JenV 2024’*, which is currently under consideration in parliament⁷. The proposed *Verzamelwet JenV* will inter alia codify the possibility to waive court fees in administrative law for litigants who are unable to pay them and change the provision on indexation in the General Administrative Law Act to allow for a decision not to index court fees in administrative law.

Legal aid

In 2021 the Dutch government installed a scheme referred to as ‘RATZ’ (*‘Tijdelijke Regeling Adviestoevoeging Zelfredzaamheid’*), that allows for government subsidized legal aid in cases in which self-reliance of the citizen is assumed by law and the citizen would normally not receive legal aid. This scheme has been extended until a permanent provision is enacted within the amendments of the Legal Aid Act pursuant to the broader efforts to reform the system of Legal Aid in the Netherlands⁸.

The experiment with the Resolution judge (‘de Regelrechter’)

The Ministry of Justice and Security and the Judiciary are in the process of preparing an experiment, based on the Temporary Justice Experimentation Law, the experiment with ‘the resolution judge (‘de Regelrechter’). The experiment will be implemented in three courts during a period of three years and aims to increase the access and simplifies the procedure in court disputes concerning small monetary claims and claims by an employee under an employment contract, including vulnerable employees such as migrant workers. The experiment will undergo evaluation through independent study to determine whether it gives rise to an amendment of the civil procedural code. The aim is to start the experiment in early 2025.

- *Resources of the judiciary (human/financial/material⁹), remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year),*

In 2024, negotiations were held on a new agreement regarding the employment conditions for the judiciary and this process is almost complete. Early 2025, it will become clear whether it will be possible to actually conclude an agreement. In that case, the agreement apply for the period from 1-7-2024 to 31-12-2025.

- *Digitalisation (e.g. use of digital technology, including electronic communication and AI tools, within the justice system and with court users, procedural rules, access to judgments online)¹⁰*

The judiciary has enhanced the digitalisation of legal proceedings in 2024. In most court case flows of criminal law, tax law and judicial supervision, judicial documents are exchanged electronically between the courts, litigants and their professional legal representatives. Secure electronic communication with the courts is available during the court process for legal professionals and litigants via digital portals. In 2025 the judiciary will enhance digitalisation of civil law court proceedings.

The project of the Council for the Judiciary to increase the number of published judgements, has also proceeded. To ensure proper pseudonymisation of personal data before publishment, a successful trial has been performed with an AI pseudonymisation tool.

- *Use of assessment tools and standards (e.g. ICT systems, including AI-based systems, for case management, court statistics and their transparency, monitoring, evaluation, surveys among*

⁷ Kamerstukken II 2024–2025, 36 638, nr. 2, see also <https://wetgevingskalender.overheid.nl/Regeling/WGK025698>

⁸ <https://wetten.overheid.nl/BWBR0049511/2024-04-01>.

⁹ Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.

¹⁰ Factual information presented in Commission Staff Working Document of 2 December 2020, SWD(2020) 540 final, accompanying the Communication on Digitalisation of justice in the European Union, COM(2020) 710 final and Figures 40 to 48 of the 2024 EU Justice Scoreboard, does not need to be repeated.

court users or legal professionals)

In 2024, the courts have not been using assessment tools.

While developing information systems for the courts, the judicial organisations use the digitalisation standards applicable for government organisations and/or, in consultation with their partners in several judicial chains (for instance the criminal law chain), the standards appropriate for the judicial chain.

- *Specialisation (of judges/specific courts/chambers within courts) and training for the judiciary to deal with commercial cases.*

Stichting Studiecentrum Rechtspleging (SSR), the training institute of the Judiciary, offers courses for judges and legal staff in different legal areas on a regular bases, including courses related to commercial law.

- *Alternative dispute resolution mechanisms and mediation*

To promote mediation, when the Judiciary refers to mediation, the first two and a half hours of the mediation are free of charge for parties who are not eligible for subsidized mediation under the Legal Aid Act, for which a subsidy (*'de startbijdrage'*) is granted to the mediator who participates in that subsidy scheme. For parties who are already litigating on the basis of legal assistance and for mediation in a criminal case, mediation is and will remain free of charge. The subsidy (*'de startbijdrage'*), which initially ran until January 1, 2025, will be extended for a period of five years, after which the outcome of an evaluation will determine whether and to what extent it is desirable to continue the subsidy.

The experiment of the Judiciary with Online (Supported) Dispute Resolution has been continued in 2024. The website www.voorrecht-rechtspraak.nl has been launched. It offers information and tailor-made counselling, to support-seeking flat owners and flat owners' associations (*Verenigingen voor Eigenaren*) in the working area of the North Holland District Court and in the nearby future in the District Courts of Amsterdam and Oost-Brabant.

C. Efficiency of the justice system¹¹

The Netherlands is currently finalizing the government appreciation of the opinion of the Venice Commission of 8 October 2023 on the Dutch justice system. The aim is to inform Parliament in Q1 of 2025. We can share our appreciation once we have informed parliament.

With regard to the monitoring and security system for persons who are threatened, the Government has fundamentally reviewed the monitoring and security system for persons who are threatened, under the direction of the National Coordinator for Counterterrorism and Security (NCTV). The implementation of the new system to secure persons will be continued in 2025.

- *Other developments*

As informed most recently to the Parliament on 4 December 2024 by the cabinet¹², the Netherlands faces a long-term capacity problem at our Custodial Institutions Agency (DJI). As part of upholding the Rule of Law it is important that crime is punished and that sentences imposed by the courts are similarly enforced. It is the priority of the government to remain executing prison sentences as soon as possible. However, capacity problems in the prison system are worrisome and since this is a complex problem further reaching measures have been necessary. The government is working tirelessly together with all relevant partners to find sustainable solutions to the capacity problems at DJI. This includes the question how we can make the prison system in the Netherlands smarter and more effective in the long term.

¹¹ Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

¹² Kamerstukken II 2023-2024, 24587 nr. 1008.

II. Anti-corruption framework

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the anti-corruption framework (if applicable):

Recommendation 2: Complete the revision of rules on revolving doors involving former ministers and state secretaries, including a two-year cooling-off period and restrictions on paid activities.

A bill has been introduced regarding rules for subsequent positions of government officials in the House of Representatives (in Dutch: *wetsvoorstel regels vervolgfuncties bewindspersonen*). This bill includes a lobbying ban, a revolving door ban and an obligation to request independent advice on subsequent positions for two years after the dismissal of government officials.

Recommendation 3: Establish stricter transparency rules on lobbying for members of the Government and Parliament.

Much of what has been implemented to promote integrity and transparency is aimed at dealing with interest representation. In the Netherlands, we do not use a transparency register; we currently focus on the publication of the agendas of ministers (provide insight into who speaks with ministers and to what extent) and lobby paragraphs in legislative processes (indicate the influence of certain organizations on legislation). Last year, an evaluation has taken place to what extent these instruments provide insight into the input of external parties in policy and decision-making. The Netherlands will take a position on the outcome of this evaluation in the upcoming months to increase the effectiveness of the current instruments (adjustment) or/and the proposal of new instruments. A lobby register is one of the options.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

- *List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO.*
- *Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.*
- *Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.*

In the anti-corruption chapter, information is provided from the Ministry of Justice and Security, Ministry of Interior and Kingdom Relations, and several organizations, such as the Public Prosecution Service, the National police, the National Internal Investigations Department (NIID: Rijksrecherche), Fiscal Intelligence and Investigation Service (FIOD) - Anti-Corruption Centre (ACC) and the Council for Judiciary (Raad voor de Rechtspraak).

Combatting corruption is a priority for the Dutch government. The current coalition agreement includes a commitment to develop a government-wide anti-corruption policy.¹³ This policy is currently being developed and will focus on both the prevention and the combatting of corruption.

¹³ PVV, VVD, NSC en BBB, 'Regeerprogramma: Uitwerking van het hoofdlijnenakkoord door het kabinet', 13 september 2024 (Regeerprogramma (overheid.nl)), p.99.

Netherlands Court of Audit Report

In September 2024, the Netherlands Court of Audit published a report about their research about the integrity policy at the twelve individual ministries and the coordinating role of the Minister of the Interior and Kingdom relations. In a reaction to the report the Minister of the Interior and Kingdom relations has committed to fulfill the coordinating role more actively, strengthen the monitoring of the integrity policy and keep having regular conversations about the integrity policy. This requires instruments to monitor the integrity policy. A working group has been set up for this purpose. In the beginning of 2025 the Minister of the Interior and Kingdom relations will inform Parliament how the recommendations of the general audit office will be implemented.

The Minister of the Interior and Kingdom relations has started an independent government wide integrity committee together with the trade unions. Civil servants can directly report suspicions of integrity violations and abuses at this integrity committee. The committee is a supplement to the existing integrity infrastructure of all the ministries.

GRECO

In September 2024, the Netherlands submitted a written Situation Report to the Group of States against Corruption of the Council of Europe (GRECO) regarding the progress on the implementation of recommendations issued in the Fifth Round Evaluation Report from 2018. Based on this information, GRECO will prepare the Addendum to the Fifth Round 2nd Compliance Report, which is scheduled to be discussed during the GRECO-plenary of March 2025. The Situation Report has been shared with Parliament and has thereby been made publicly accessible.

Updating and validating integrity regulations has great attention at the National police. Therefore the National police is currently reassessing its integrity regulations. The ancillary activities policy rule has been prioritized and is currently being updated. The reason for this ongoing update is the organization's desire to optimize the registration of ancillary activities. The rules regarding ancillary activities have not been substantively changed. However, more emphasis has been placed on the dialogue between manager and employee. A self-scan has been developed by the organization to give guidance towards the employee and the manager on this matter. Furthermore, ancillary activities will become a recurring topic during periodic performance and assessment interviews of police personnel. This means that this data is also processed in the personnel file.

In the recently updated theme page on the police intranet regarding accepting gifts, the police also refers to dilemmas and case studies to (continue to) promote good discussion about receiving and accepting gifts. Regarding the registration of received gifts (the notifications) which is the subject of GRECO recommendation xxi, the organization is not yet systemically set up for this. To improve this matter, the new HR system could provide a solution. The implementation of this system is delayed. Since the new HR system is primarily a plan and scheduling system, it will therefore still be necessary to determine how, and which system is suitable for uniform registration of received gifts. Given the expected complexity of this matter and the capacity that the implementation of the new HR systems requires of the National Police, the completion and use of the new HR-system is delayed until 2026.

Budget

In 2024, the decision was made by the House of Representatives to additionally allocate €5 million annually to combat corruption.¹⁴ A part of these funds is earmarked for the Internal Investigations Department (*Rijksrecherche*), to strengthen its investigation capacity and to purchase IT tooling and data processing equipment. These investments will facilitate the effective investigation of public sector corruption. Besides that, budget will be allocated to the FIOD/ACC to strengthen investigation and prosecution by the Criminal Intelligence Team and the ACC team and to purchase hardware to aid data-

¹⁴ <https://www.government.nl/topics/crime-and-crime-prevention/news/2024/12/09/government-invests-in-fight-against-corruption> This is pending approval by the Senate.

driven investigations. A large part of the budget is allocated to the implementation of a nationwide anti-corruption policy. Additionally, investments will be made in the Public Prosecution Service (OM) and the incumbent judiciary. These investments are made to follow up on recommendation 1 of the EU Rule of Law 2024 report (Continue efforts to address shortages in human resources and challenging working conditions in the justice system).

OECD Working Group on Bribery

As mentioned in previous reports, the Organisation for Economic Cooperation and Development's Working Group on Bribery in International Business Transactions (OECD WGB) reviewed the Dutch anti-corruption efforts in 2020. In order to implement outstanding recommendations on self-reporting (recommendations 3 and 6.c. of the OECD WGB Phase 4 evaluation report), the Public Prosecution Service developed a Directive (policy) titled "Aanwijzing zelfmelden, medewerking en zelfonderzoek" regarding self-reporting and self-investigation by companies as well as cooperation of said companies with law enforcement during criminal investigations. The Directive is aimed at (suspected) criminal acts performed by legal entities and explicitly excludes acts that cover violations of a natural person's bodily integrity.¹⁵ The directive will come into effect on 1 January 2025.¹⁶

Additionally, in order to fulfill a recommendation on proposed reforms to its non-trial resolution framework (recommendation 6.a.), the PPS amended their Directive on the Investigation and Prosecution of Foreign Bribery. Among others, the instruction now prescribes that the essential elements of resolutions - when a foreign bribery case is settled out-of-court¹⁷ - in all foreign bribery cases will be published, for example through a press release or other notification.

UNCAC

As previously reported, in 2023 the UN Convention Against Corruption (UNCAC) evaluation of the Netherlands reached its final stage. After the virtual on-site visit in November 2020, in August 2023 the executive summary was finalized and formally distributed.¹⁸ In November 2024, the UNODC shared their draft evaluation report with the Netherlands. As of December 2024, the Netherlands is reviewing the draft in order to finalize the report in 2025.

Dutch Caribbean

In order to strengthen anti-corruption measures in the Caribbean part of the Netherlands (the special municipalities Bonaire, Sint-Eustatius and Saba), alterations have been made to the police Data Decree (Besluit Politiegegevens). The changes will allow the thematic registration of corruption offences in these regions through which more insights and general trends of corruption offences can be gained. The new, altered Decree will come into effect on January 1st 2025.¹⁹

FIOD

In order to improve the investigation of corruption cases effectively and increase the capacity, posts were reassigned internally within the FIOD – ACC. In 2024, vacant positions were filled and new employees have started internal training. As per today, all positions are filled and the FIOD – ACC has two fully operational teams investigating corruption.

The previous EU Rule of Law report (24 July 2024) already stated that, following a motion submitted and adopted by the Dutch Parliament on 25 June 2024, the Government committed to accelerate the dismantling of NSOC and allocate financial means to the competent authorities to organize the

¹⁵ The Directive has a broad scope, it covers all offenses committed in the sphere of a legal person, with the exception of direct violations of the physical integrity of natural persons.

¹⁶ <https://www.rijksoverheid.nl/documenten/rapporten/2024/12/01/tk-bijlage-openbaar-ministerie-aanwijzing-zelfmelden-medewerking-en-zelfonderzoek>

¹⁷ <https://www.om.nl/onderwerpen/beleidsregels/aanwijzingen/specialistisch/aanwijzing-opsporing-en-vervolgning-buitenlandse-corruptie-2024a003>

¹⁸ <https://www.rijksoverheid.nl/documenten/rapporten/2023/10/05/bijlage-3-executive-summary-evaluation-nl-2023-uncac>

¹⁹ <https://zoek.officielebekendmakingen.nl/stb-2024-372.html>

information-sharing activities themselves. As announced by the Minister of Justice and Security on 3 September 2024, this partnership has now been concluded as planned, with the end of 2024 as the final deadline. The allocated funds will be redirected to further develop the multidisciplinary approach to subversive, organized crime, in line with the earlier commitment made.²⁰

National police

The police integrity directorate directs a department that executes complex internal investigations, combats police corruption, protects whistleblowers and promotes integrity. This department will be formalized in 2025 and supplemented with the necessary capacity.

Approach to Police Corruption

To further develop the approach on police corruption, the focus for 2025 will be on operationalizing the development lines described below. The development lines are: (1) National Intelligence Picture, police Corruption, (2) Field Lab Police Corruption, (3) Insider Threat Intelligence, (4) Collaboration with Science and (5) Collaboration on Strengthening Resilience.

1. National Intelligence Picture – Police Corruption

The intelligence organization has produced the first national intelligence picture of corruption. In 2025, this picture will be further operationalized. The results can be used to make risk-based policy decisions.

2. Field Lab - Police Corruption

In collaboration with various police units, learning, experimentation, and development environments (Field Labs) are used to explore which interventions can be applied to detect, recognize, and combat police corruption at an early stage.

3. Protective monitoring and Insider Threat Intelligence

Starting in 2025, the police will roll out Protective Monitoring nationwide within the police organization: a system for analyzing patterns and deviations in the use of police systems. With the implementation of Protective Monitoring, the police will meet the legal obligation to proactively monitor police systems. The police particularly aims to detect misuse (both intentional and unintentional) of the systems at an earlier stage.

This system is designed for the automated early detection of anomalous, risky, and unlawful use of police information systems. Our initial experience shows that protective monitoring is not only effective in detecting malicious use of police information it can also detect individuals that have no intention to harm the organization but make mistakes or use the system for nonwork-related purposes. For these latter cases, protective monitoring can be used as a preventive measure that enables the police to correct and warn employees before any more serious damage is done.

4. Collaboration with Science

Collaboration with science is crucial for addressing police corruption, as it helps to define and better understand its nature and scope. Scientific research on police corruption is an ongoing process because corruption and human behavior evolve, continuously adapting to changing circumstances.

Currently, research is being conducted to explore whether a crime script for police corruption can be developed.

5. Collaboration on Strengthening Resilience

Resilient civil servants are invaluable in preventing, combating, and addressing corruption. Employees of the police need to be able to recognize situations in which corruption occurs. To strengthen resilience among employees against corruption, a pilot will start in 2024 with two units. The pilot consists of a series of workshops where employees will be guided through real-life case studies to understand what

²⁰ Kamerstukken II 2023-2024, 36560VI, nr. 15.

corruption is, its potential consequences, and what actions they can take. The pilot will continue into 2025 and will be evaluated.

Programme Directorate-General on Subversive Crime

The Programme Directorate-General on Subversive Crime within the Ministry of Justice is responsible for the broad offensive against organized crime and therefore also for developing policy on corruption related to organized crime. The DG was initially set up in 2020 for a duration of two years. The illegal drug trade, however, still poses a threat to society and tackling it is a continuing major challenge that requires broad engagement and commitment from all partners that are involved in the broad and integrated approach. Therefore, recently it has been decided that the Programme Directorate-General will be continued, which ensures the continuity of the offensive that has been developed in recent years.

European Public Prosecutor's Office

On 20 March 2024, the European Public Prosecutor's Office (EPPO) college appointed a third Dutch delegated European prosecutor (EDP). The process for the recruitment of a fourth EDP is currently underway.

B. Prevention

- *Developments to enhance transparency and integrity (specifically conflict of interests) on national level (government officials)*

The Netherlands attaches great importance to have a reliable, just, accountable and transparent government. The Netherlands has a structure and culture in place with safeguards to this end. Dutch government and society enhance and embrace reflection and discussions on these topics, to continuously examine the current framework, the effectiveness and what we possibly could do better.

Various steps have been taken in recent years to further strengthen our framework, including in response to GRECO's recommendations on promoting the integrity of government officials. Specifically, our focus has been on:

- Introduction of a self-assessment on the subject of integrity for candidate government officials prior to their taking office.
- A code of conduct on integrity for government officials that has been published.
- This code of conduct contains various agreements that promote integrity. This includes agreements regarding conflicts of interest: giving up ancillary activities, how to deal with business gifts, financial interests and dealings with third parties.
- A bill has been introduced regarding rules for subsequent positions of government officials in the House of Representatives.
- This bill includes a lobbying ban, a revolving door ban and an obligation to request independent advice on subsequent positions for two years after the dismissal of government officials.
- Last year, two confidential officers for government officials have been appointed.
- The Implementation Directive regarding the publication of the agendas of government officials is in place (where it is transparent who speaks with officials to what end).
- Improvement of lobbying paragraphs in legislative processes.

As mentioned in the Rule of Law report last year, there has been a legislative proposal to increase integrity among local governors by making this risk analysis mandatory. Besides identifying integrity risks, this bill also ensures rules that prohibit economic activities that could lead to conflicts of interests. The bill has been in consultation and will be submitted for advice by Council of State on

short notice.

The Integrity and Safety 2024 monitor – a research done by Ipsos I&O – is another tool the Dutch government uses to enhance integrity. It aims to map experiences with aggression, intimidation, and threats of integrity violations within the public administration. The monitor showed increased attention to integrity among local and provincial governors and a positive development in more structural awareness of integrity whereas this was limited to isolated incidents and issues before. To further strengthen integrity the Dutch government is aiming to develop clear – mandatory – quality standards for integrity checks in 2025 as there are none now.

Code of Conduct for the Central Government Civil Servants

The Code of Conduct for the Central Government Civil Servants is currently being revised. It is expected to go into force the 1st of January 2026. The Code of conduct provides an overview of the integrity rules that apply to all central government civil servants. In addition, the code of conduct provides guidance in making considerations and decisions. The code of conduct emphasises the importance of an open integrity culture where dilemmas can be discussed.

Additionally, the ministry of the Interior and Kingdom Relations is exploring ways to implement risk management within the integrity policy of the Central Government.

Oath of Office

In 2023 the Dutch Council of ministers decided that there will be a new version of the oath of office that all civil servants within central government take at the start of their job. The new version of the oath of office is more understandable and makes it clearer that civil servants work in the general interest of our society. Moreover the new oath of office expresses better that all civil servants deal with people in their work on the basis of justice, equality and respect. In 2024 the implementation of the new oath of office is prepared. In 2025 the implementation will take place and the new oath of office will formally enter into force.

- *Measures to ensure whistleblower protection and encourage reporting of corruption, including their application (i.e. number of reports received, and the follow-up given).*

The Netherlands implemented the European Whistleblower Directive (EU) 2019/1937 in February 2023. An implementation study on the new Whistleblower Protection Act is done by a research agency in 2024. This study examines how the law works out in practice, with special attention to the target group. The Dutch House of Representatives will be informed about this study in the beginning of 2025.

As reported last year some provisions of the Dutch Whistleblowers Protection Act didn't come into force yet. Those provisions concern adopted amendments by the Dutch House of Representatives and require research and further regulation first.

On the one hand, this concerns provisions requiring employers to deal with anonymous reports of suspected wrongdoing or abuse. The government has worked on an amendment to the legislation to regulate anonymous reports of suspected abuse. A draft regulation has been drawn up, setting additional requirements for the official receiving the anonymous reports, as well as the way in which anonymous reporting can take place. From April to August 2024, the draft regulation was available for online consultation, to enable to provide feedback. The relevant authorities have responded and have expressed their concerns about the practicability of the draft. The government is now considering how anonymous reporting can be incorporated into Dutch legislation in a feasible manner.

On the other hand, this concerns provisions on new supervisory and sanctioning tasks and associated powers for the Dutch Whistleblowers Authority. A preliminary legal research was carried out by an consultancy agency. The main conclusion of this study is that the supervisory tasks and sanctioning powers in the form as included in the amendment are not legally tenable. Various legislative amendments and elaborations are necessary to achieve a proper supervision and enforcement system. The Dutch House of Representatives was informed about this study and about the state of play of the

whistleblower dossier .

As of 1 February 2024, the Subsidy Scheme for Legal Aid and Mediation under the Whistleblower Protection Act came into effect. Based on this scheme, (potential) reporters of abuse who come into conflict with their employer after filing a report can qualify for support from a lawyer or mediator via the Legal Aid Board. In order to receive support, a referral from the advisory department of the Whistleblowers Authority is required. The scheme applies for four years and will be evaluated in the meantime (early 2026).

The Employers Survey Labour (in Dutch: *Werkgevers Enquête Arbeid*, abbreviated: WEA) is a biennial, representative survey among employers on the labour policy of and by companies and institutions in the Netherlands. This survey is conducted by the Dutch Organization for Applied Scientific Research (TNO). The WEA for 2024 includes questions on the presence and application of the mandatory internal reporting procedure at employers based on the Whistleblower Protection Act. These questions will again be included in the WEA for 2026 with the possibility of extension.

On 7 November 2023, TNO published the results of the WEA. These results show that 74% of employers with 50 or more employees have indicated that they have a procedure for reporting suspected wrongdoing (abuses) within the meaning of the Whistleblower Protection Act. Of these employers, 54% have adjusted their internal reporting procedure in response to the Whistleblower Protection Act. 83% of employers have indicated that they inform their employees about the reporting procedure.

The campaign to promote a safe working and reporting climate, which started in 2023, was continued in 2024. Several meetings were organised with the aim of helping professionals creating a safe working climate in their organisations. As well as raising awareness about the Whistleblowers Protection Act. In 2025 efforts to promote a safe working and reporting climate will be continued, whilst paying extra attention to reaching small and medium-sized enterprises (SME's) as these were under represented in meetings and activities.

As reported to the European Commission via the Questionnaire for the collection of statistics according to Article 27(2) of Directive (EU) 2019/1937 in May 2024, the Dutch competent authorities received 85 reports of breaches falling within the scope of the national legislation transposing the Directive in 2023 and 17 investigations were initiated in 2023 (the data were collected by the Dutch Whistleblowers Authority). In the Netherlands, no specific data are available at central level on the number of reported corruption cases (and the follow-up given).

- *Specific measures to enhance transparency, integrity and accountability in sectors with high risks of corruption, with a view to monitor and prevent corruption and conflict of interests, and where applicable measures to prevent and address corruption committed by organised crime groups.*
 - *Such high-risk sectors could include: public procurement, including construction, transport/infrastructure, defence, cohesion, agriculture, environment, healthcare, citizen/residence investor schemes, large-scale investments of national interest and the spending of EU funds, urban planning.*

The FIOD – ACC conducted a public private partnership pilot in the banking sector in order to create awareness on corruption in the healthcare sector and investigate possible corruption cases, regarding specific groups of medical professionals. With the input generated by this pilot, banks have more tools to use in their transaction monitoring process, which can lead to more unusual transactions. The knowledge document for banks is currently under biennial review.

The FIOD – ACC conducted a public private partnership pilot in the banking sector in order to create awareness on corruption in the healthcare sector and investigate possible corruption cases, regarding specific groups of medical professionals. With the input generated by this pilot, banks have more tools to use in their transaction monitoring process, which can lead them to report more unusual transactions and for banks to implement their due diligence and know your customer instruments more effectively.

Furthermore regarding public-private partnership with the banking sector, the knowledge document for banks that has been compiled in 2020 and updated in 2022, is currently under biennial review.

FIOD – ACC has intensified the relationship with Atradius, the trade credit insurer of The Netherlands in order to increase awareness on corruption risks and indicators in the process of issuing credit assurance.

In order to create awareness on corruption, FIOD – ACC contributed on several occasions to presentations on anti-corruption, both internally and externally, for national and international regulators and law enforcement agencies. Specifically regarding accountants, FIOD – ACC contributed to the new guideline²¹, drawn up by the branch organization (NBA) with the aim of making accountants more aware of corruption risks so they can better recognize signs of corruption and know what actions are subsequently required of them.

National police

The whistleblowers protection coordinators are appointed to deal with anonymous reports of a suspicion abuse. Protecting anonymous whistleblowers is ensured by the amended Whistleblowers Protection Act ('*Wet bescherming Klokkeluiders*', WBK), that needs to be implemented. This legislation has already been implemented within the organization in the form of the Whistleblower Reporting Point ('*Klokkeluiders Meldpunt Politie*', KMP) and an internal reporting procedure. To encourage reporting a campaign (presentations and infographic) has been organized which focused on awareness and accessibility to the Reporting Point and the existence and role of Integrity Confidential Advisors.

Code of conduct and theme pages

The National police have developed a new basic training course for the professionalization of all employees within the integrity departments. This new training is currently in the pilot phase. In addition, there will be in-depth training per process (screening, internal investigations, complaints and prevention).

NIID

The ruling on 21 June 2024 by the Court of Appeal of The Hague in the Tyrus case involving a local politician.²² The judgment raised the burden of proof for the offence of public official bribery. The District Court ruling in this case also noted the lack of sufficient regulations on political party financing.²³

- *Measures for the prevention of corruption in relation to the issuing of official permits (e.g. related to environment, energy and various types of construction)*

There are government-wide purchasing rules and general integrity agreements as reflected in the central government code of conduct. Individual ministries can develop further regulations.

- *Reporting on the use of digital technologies to enhance transparency and oversight in public procurement*

Public platform TenderNed

EU directives govern procurement contracts above certain thresholds to ensure the transparency of the procedures. Notices of such contracts must be published on the European [Tenders Electronic Daily \(TED\) portal](#). In the Netherlands this is done by TenderNed. All Dutch authorities are obliged to publish their national and European tenders on TenderNed's [announcement platform \(in Dutch\)](#), so businesses can access all public publications from a single webpage.

²¹ <https://www.nba.nl/wet--en-regelgeving/handreikingen/nba-handreiking-1137/>.

²² <https://www.om.nl/actueel/nieuws/2024/07/05/om-stelt-geen-cassatie-in-zaak-tyrus>.

²³ <https://www.bijzonderstrafrecht.nl/home/de-mos-zaak-vrijspraken-voor-omkoping-veroordeling-voor-schending-geheimhoudingsplicht>.

Using TenderNed, all parties can digitally manage all steps throughout the entire tender process. The contracting authority decides whether businesses must submit their offer digitally in TenderNed. If this is the case, interested businesses submit their complete offers through TenderNed. Scoring and rewarding is also carried out in the application.

Public Procurement Data Space

On 24 September 2024 the launch of the Public Procurement Data Space (PPDS) took place. The PPDS should enhance transparency and efficiency in public procurement across Europe. By leveraging advanced data analytics and digital tools, the PPDS aims to empower policy officers, public buyers and businesses and improve decision-making. The event brought together stakeholders from various sectors to explore the benefits and applications of this innovative space, highlighting Europe's commitment to a more open, competitive, and fair procurement landscape ([PPDS website](#)).

The Public Procurement Data Space (PPDS) will connect European databases, including TED data on public procurement, and national procurement data sets available in national portals. The concrete implementation and expected benefits are further explained in the [Commission communication](#) published on 16 March 2024.

The development of a truly integrated space for public procurement data will require a collaborative effort at EU, national and at the level of all public buyers across the EU.

C. Repression

- *The legal framework on the criminalisation and sanctions for corruption and related offences, including foreign bribery.*
- *Official data on the number of investigations, prosecutions, final judgments, and the application of sanctions for corruption offences (differentiated by offence if possible)²⁴. Please indicate whether the cases: involve legal persons; are related to the implementation of EU or national funds²⁵; involve high level corruption. Please indicate which data is publicly available and how policy-making is informed by the data.*
- *Potential obstacles identified in law or in practice to the investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning).*
- *Information on effectiveness of criminal and non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.*

As mentioned in section A, the allocated additional structural investment of €5 million for fighting corruption is also intended for repression purposes. Namely, these investments are intended for strengthening the resources and expertise of law enforcement agencies and branches of the PPS who are tasked with the investigation and prosecution of corruption.

Council for the Judiciary

In relation to the question on the number of final judgements of corruption offences, data was obtained on the number of final judgements regarding corruption offenses articles 177, 178, 328ter and 363 of the Dutch Criminal Code.

In the first instance, we have had 8 corruption cases in 2024 (until 1st of December) where the rulings

²⁴ Please include, if available the number of (data since 2022 or latest available data): indictments; first instance convictions, first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year.

²⁵ For MS participating in the EPPO, data on cases related to EU funds does not encompass investigations and prosecutions carried out by the EPPO.

are final (source PSK, 09-12-2024). In the second instance, 30 corruption cases have been brought to trial in 2024 (until 1st of December) and in which a final verdict was obtained (source InfoRM, 09-12-2024).

These figures relate to the preparation, attempt or completed offences. In addition, these may also relate to participation in co-perpetration, complicity, incitement, or commission of the offence. These figures are indicative. They provide the best possible representation based on the information currently available from the management information systems available to the Judiciary.

Public Prosecutors Office

Data on the PPO will follow as soon as possible.

NCBC

EU Directive 2024/1260 on asset recovery and confiscation requires Member States to develop a provision in criminal law that allows for the confiscation of property linked to criminal conduct, without the requirement of a prior conviction for a criminal offence. This provision may also apply in the criminal prosecution of corruption cases. National implementation of the provision is in preparation and must be implemented by November 2026.

In March 2024, the research report on drug-related official and non-official corruption threats at Schiphol Airport and in the Port of Rotterdam was sent to the House of Representatives²⁶. The research confirms, in line with previous research, that corruption threats at Mainports are mainly linked to bribery. The research also shows that public agencies already have many policies and measures in place aimed at anticipating, preventing and combating corruption. The resilience of these authorities is therefore estimated to be relatively high. Strengthening resilience against corruption is an important pillar in the approach of undermining crime in general and logistics hubs in particular. The Netherlands, together with public and private partners, is committed to making the resilience of employees and civil servants in the Mainports against corruption as high as possible.

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding media pluralism and media freedom (if applicable):

Recommendation 4: Enhance the governance of public service media and its ability to uphold journalistic standards, taking into account European standards on public service media.

With regards to the recommendation of strengthening the governance of public service media and its ability to uphold journalistic standards, the Government has announced it will publish its policy incentives regarding this topic during the first quarter of 2025. Strengthening the governance will be part of a larger policy effort to strengthen the Dutch public broadcasting system. The intention is to introduce legislation on this topic to the Dutch Parliament in 2026.

A. Media authorities and bodies²⁷

No developments.

B. Safeguards against government or political interference and transparency and concentration of media ownership

At this moment the Dutch government is working on a legal proposal for the implementation of article 22 of the European Media Freedom Act. This article requires an additional (pluralism) assessment – next to the regular competition assessment - of media market concentrations that

²⁶ Kamerstukken II 2023-2024, 24077 nr. 540.

²⁷ Cf. Article 30 of Directive 2018/1808.

could have a significant impact on media pluralism and editorial independence. National regulatory authorities or bodies, which have specific expertise in the area of media pluralism, should be involved in the assessment.

C. Framework for journalists' protection, transparency and access to documents

Regarding the PersVeilig project the minister of Education, Culture and Science decided to structurally finance PersVeilig. In 2025 Persveilig will be turned into a foundation with a board representing the journalistic sector. The foundation will be financed with a contribution of employers and public money. PersVeilig will be an independent foundation which works on enforcing the safety of journalists by offering support, training and (legal) advice.

- *Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.*

In 2024 the Netherlands has replied to five active alerts lodged with the Council of Europe's Platform, four of which dated from 2023, one dated from 2024. Currently there are no active alerts regarding the Netherlands.

- *Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists.*

Journalistic freedom is a great good; this is being diligently pursued from the cabinet. The police use internal instructions to safeguard the freedoms and rights of journalists. Press freedom and press safety are also important during demonstrations, and journalists must be able to do their work properly in these situations. It helps here if journalists make their presence at the demonstration known to the police, including by showing their police press card. The National Police Press Card (LPP) with accompanying riot card plus the optional calamity badge, serve to identify, among others, journalists carrying out their work in the areas cordoned off by police for reporting, for instance, demonstrations, riots or calamities. In addition, journalists must comply with instructions given by police, which aim to keep the work of journalists, as well as the work of the police, safe.

When a report is filed, journalists are treated by police in line with the Protocol of PersVeilig.

- *Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information).*

The government is taking next steps to improve the implementation and feasibility of the Open Government Act (Wet open overheid; Woo) and investing in proactive disclosure to further enhance transparency and access to information. In June 2024, the government published its response to the Woo implementation review. In this response, various measures were announced to improve and accelerate the processing of requests for information under the Open Government Act (i.e. Woo requests). These measures include process optimisation and policy development that should ultimately lead to more efficient handling of Woo requests and better responsiveness to the needs of citizens. Examples include better ICT infrastructure and a standardized information process.

A Woo dashboard is developed to provide insight into the handling of Woo requests within the national government. This dashboard is publicly available from January 1, 2025. Moreover, a study will be conducted to gain better insight into the concrete administrative burden imposed by the Open Government Act. Based on these findings and the outcome of the evaluation of the Act under Section 8.9, which will start at the end of 2025, further decisions and measures can be made to improve (the implementation and feasibility of) the Act.

In addition to disclosure upon request, the government is committed to increasing proactive disclosure of public information. Under Section 3.3 of the Open Government Act, government organizations are required to proactively disclose a minimum of 17 categories of information. This obligation is being implemented in phases to allow organizations to prepare for the disclosure of different categories and to align their systems and processes accordingly. As of November 1, 2024, government organizations are required to proactively disclose the first five information categories. This information must be made accessible through a central repository: the Woo Index. Furthermore, the government is developing policy for the proactive disclosure of other information under Section 3.1 of the Open Government Act, for example, regarding policy documents that attract significant public interest.

Various measures being implemented as part of the Multi-Year Plan for Transparency and Information Management (Meerjarenplan Openbaarheid en Informatiehuishouding) aim to improve information management within the government. This includes better compliance with and implementation of the (new) Archives Act, increased uniformity in information management policies, and the development of ICT tools that enable civil servants to better manage information and collaborate effectively. Innovation and technology (including AI) are important aspects in this effort. Additionally, by 2025, policies on email and chat archiving will be established. ICT tools and processes to support these policies are currently under development. Further policies are also being formulated for the archiving of draft policy documents.

Finally, in its effort from open government to open state, the government places great importance on collaboration with national and international stakeholders. For example, through the Open Government Action Plan (2023-2027), which was developed in close cooperation with civil society partners, local governments and knowledge institutions. In this Action Plan, civil society implements several open government initiatives, which is unique from an international perspective. Additionally, we maintain ongoing dialogue with the Advisory Board on Open Government and Information Management (Adviescollege Openbaarheid en Informatiehuishouding) and journalists to identify challenges in open government policies and explore areas for improvement. The government also shares and broadens its knowledge and experience in open government internationally through collaboration with the OECD and the Open Government Partnership (OGP).

- *Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits.*

The necessary work to implement the anti-SLAPP Directive in a timely and appropriate manner has been taken in hand. Dutch national law already provides for most of the procedural safeguards of the Directive. Only the measure of providing security (Article 10 of the Directive) needs implementation by separate legislation. A legislative proposal for that purpose was launched for public consultation in early October 2024. Following the consultation responses, which have been processed to the explanatory memorandum the draft Act has been sent to the Advisory Division of the Council of State, the principal advisory body on legislation.

Besides that, in coordination with stakeholder organisations, the government is currently considering how best to provide information to legal professionals, litigants and the general public in the Netherlands, to provide them with sufficient awareness and knowledge about the phenomenon of SLAPPs to be able to prevent or combat them in practice. Developments about SLAPPs in the Netherlands will furthermore be monitored, for example by dialogue with stakeholder organisations and with the Council for the Judiciary. Together with the Council for the Judiciary, government is considering the best way to ensure registration and publication of SLAPP-cases.

With regard to the follow-up of the anti-SLAPP recommendation, a letter with a detailed description of efforts undertaken by the government is planned to be sent to the European Commission shortly.

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the system of checks and balances (if applicable):

Recommendation 5: Ensure an adequate follow-up to the recommendations of the State Commission on the Rule of Law, strengthening the legal protection of citizens.

The State Commission on the Rule of Law has presented its report 'De gebroken belofte van de rechtsstaat' (in English: The broken promise of the Rule of Law) in June 2024. The State Commission makes ten proposals to Parliament, the government, the judiciary and government organisations with citizen contact. The government is working on a response explaining what the proposals addressed to the government are and what will be the follow-up. This government response is expected before summer 2025. In addition to the ten proposals, the State Commission suggests to set up a structural dialogue between the state powers on the basis of a 'rule of law agenda'. The aim of this dialogue is to create an interaction between the state powers in which they exchange information about the functioning of the rule of law and follow up signals where necessary. The government sees the added value of setting up this dialogue for the purpose of strengthening the rule of law and will make efforts to achieve this.

A. The process for preparing and enacting laws

- *Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).*
 - Safeguards to ensure legal certainty, the stability of the legal framework and non-discrimination.

As announced in the previous report, a bill was introduced in 2023 to provide a regular legal basis for the measures with regard to asylum for displaced persons from Ukraine. This bill has entered into force on 27 June 2024. The effect is that the previously used legal basis that was found in general emergency legislation is now replaced by a regular legal basis. There are no other developments.

- *Regime for constitutional review of laws*

In its Governing Programme, the government describes the introduction of judicial constitutional review as one of its priorities. The aim is to bolster the importance of the Constitution and of fundamental rights. Furthermore, the government is preparing a constitutional amendment to establish a constitutional court that is competent to review the constitutionality of laws, rules and decisions. A first draft of these plans, describing the outlines of the government's plans for implementing constitutional review and the establishment of a constitutional court, will be sent to Parliament as soon as possible.

B. Independent authorities

- *Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions²⁸*
- *Statistics/reports concerning the follow-up to recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies, and supreme audit institutions in the past two years.*

The Ministry of Justice and Security has sent an official response to the Parliament to the findings of the Committee of enquiry reporting a suspicion of possible wrongdoing at the Human Rights Institute.²⁹

²⁸ Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>.

²⁹ Kamerstukken II 2023-2024, 36410-VI nr. 100.

The Human Rights Institute is actively working on the subjects in the report and in doing so it stays in close communication with the national government.

- *Safeguards to ensure the effective independence of supervisory and regulatory authorities with a direct impact on economic operators*

In the Netherlands five inspectorates are responsible for market surveillance under the Market Surveillance Regulation with regard to harmonized EU product rules. Each of these inspectorates is responsible for market surveillance of a specific field of law. The Ministry which is responsible for the corresponding policy field and law is responsible for appointing the relevant inspectorate. Guiding principle in this regard is that inspectorates on the basis of their expertise prepare and conclude findings and assessments in an impartial and independent way. The competence of the Minister to give instructions may not interfere in this. This arrangement is based on a ministerial ordinance, the *Regeling vaststelling Aanwijzingen inzake de rijksinspecties*. This means in practice that a Ministry may not give instructions to an inspectorate or exert any influence on its assessments.

As agreed by the coalition parties and as mentioned in the government programme, the government is currently working on a *Kaderwet rijksinspecties*. This act will contain rules and safeguards guaranteeing by law the independent execution of tasks assigned to a certain type of supervisory and regulatory authority, namely *rijksinspecties*. These authorities are part of the ministries and are tasked with supervising and regulating companies, semi-public institutions, civilians and central, provincial- and municipal governments in a variety of fields including road transport, youth healthcare and labor regulations. Safeguards include the ability to publish findings without prior approval of the responsible minister, the prohibition for ministers to interfere with the findings of *rijksinspecties* and the ability to provide information to parliament also without prior approval of the responsible minister. Some of these safeguards are already in place but this act aims to enshrine them in an act made by the government and parliament, offering further protection. The act is currently being prepared by the government and will be published on internetconsultatie.nl for consultation by the public on a short term.

Competition and Consumers (ACM)

The Dutch authority Authority for Consumers and Markets, in Dutch: *Autoriteit Consument en Markt*, ACM) is a competition authority, a consumer protection authority and a regulatory body for Energy markets, Telecom markets and Public transport markets. The ACM is an autonomous administrative authority. Its independence is guaranteed by the Establishment Act of the Authority for Consumers and Markets and the Framework Act on Autonomous Administrative Authorities, which is also applicable to the tasks that the Authority for Consumers and Markets performs.

The most important safeguards to ensure the independence of the ACM is that the ACM may decide independently on what cases it will investigate (priority setting). The Minister of Economic Affairs or any other Minister shall at any time refrain from giving instructions. This ensures that there is no any political interference whatsoever.

There have not been any changes specifically regarding to the legal framework on the independence of the ACM since the establishment of the ACM.

C. Accessibility and judicial review of administrative decisions

- *Respect of the good administration principle (including the obligation of the administration to give reasons for decisions)*

A response will be provided during the visit of the Commission.

- *Judicial review of administrative decisions: short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules)*

or derogations from the general regime of judicial review).

A response will be provided during the visit of the Commission.

- *Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)*

No developments.

- *Safeguards (other than judicial review) regarding decisions or inaction of administrative authorities, including remedies*

A response will be provided during the visit of the Commission.

- *Implementation of final judgments by the public administration and State institutions and follow-up given to supranational judgments, including decisions from the European Court of Human Rights, as well as available remedies in case of non-implementation*

As of 1 January 2025 eight final judgments of the European Court of Human Rights remain to be (partly) implemented. The time needed for the implementation of these judgments varies. If only individual measures are required such as the granting of a residence permit or the payment of compensation, then a judgment can be fully implemented within a few months. If, however, the judgement requires changes in legislation then implementation can require a period of a few years. The judgment that has awaited implementation the longest, namely almost nine years, concerns the immutability of a life sentence, imposed on a prisoner with a mental illness in Aruba and Curacao. In a case concerning Sint Maarten, a judgement of the Court from 2017 has contributed to a decision to completely overhaul the detention system with the construction of an entirely new prison. Naturally this also requires a significant period of time.

Same as 2023: Any judgement of the European Court of Human Rights in which the Court finds a violation of the European Convention on Human Rights by the Kingdom of the Netherlands is very carefully assessed by the Agent of the Kingdom of the Netherlands before the European Court of Human Rights together with the relevant Ministry. Relevant elements of this analysis include an examination of the cause of the violation established by the Court, whether this case concerns an incidental violation which is unlikely to be repeated or whether this violation points to more structural problem which requires structural measures. In the latter case, an additional question is whether new legislation or amendments to legislation are required or whether a change of policy or guidance, training or other measures are sufficient. In any event, given the direct effect of the European Convention on Human Rights in the Dutch domestic legal order and its precedence over even formal legislation, judicial and other remedies are readily available to prevent further violations. The Netherlands ensures that the Department for the Execution of Judgements of the Council of Europe is regularly informed of all steps taken.

D. The enabling framework for civil society

- *Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration, transparency and dissolution rules)*

With the Enhancing Decentral Participation Act, since 1 January 2025, the national government strengthens the involvement of residents in the preparation, implementation and evaluation of policy in municipalities and provinces. With the new law, local authorities are obliged to draw up a 'participation regulation' with clear frameworks for participation. In it, governments record how residents are involved in the preparation, implementation and evaluation of policy. This provides clarity for both residents and representatives about how participation is possible.

The law also consolidates the so-called 'right to challenge': residents can request to take over the

execution of a task from the government, with or without an associated budget, because they think they can perform this task better or more efficiently. Examples are the maintenance of a park or the management of a community centre. When using the right to challenge, the involvement of residents and social parties in their immediate living environment is increased. It also offers opportunities to improve the social cohesion and can lead to new forms of cooperation between citizens and government.

- *Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures to protect them from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services, as well as available remedies.*

The right to demonstrate and freedom of expression are essential in our democratic society. These fundamental rights enable people to speak out with others and participate in public debate. Thus, social tensions can be channelled and the expression of critical views is given space and is protected. Protection of these fundamental rights is a high priority for the Dutch government. To promote the implementation of the right to demonstrate, the Ministry of the Interior and Kingdom Relations, in cooperation with the University of Groningen, has created a digital knowledge bank for both demonstrators and local authorities, containing up-to-date information on the right to demonstrate. This digital knowledge base can be found at www.demonstratierecht.nl.

In a letter to the House of Representatives dated 19 April 2024³⁰, the cabinet emphasised as a basic principle that the right to demonstrate is a fundamental right that must be protected, expression must be facilitated as much as possible and demonstrators must be protected. In that letter, the cabinet announced an independent investigation, to be carried out through the Scientific Research and Data Centre (WODC), to investigate what possibilities there are to strengthen the action perspective of all those involved and to perpetuate the legal framework around the right to demonstrate. The results of this study are expected in summer 2025. In addition to this the cabinet announced in their Government programme of 13 September 2024³¹ that they want to make a sharper distinction between (peaceful) demonstrations and order-disruptive actions. As the Government programme states, demonstrating is a fundamental right but disorderliness, threats against others or public violence where demonstrators go beyond the limits of criminal law are unacceptable. This also has the attention of parliament.

Following the letter of 19 April 2024, the House of Representatives has scheduled a debate with the minister. This is tentatively scheduled for 22 January 2025. Prior to this debate, the Minister of Justice and Security and the Minister of the Interior and Kingdom Relations, partly in response to a motion accepted by the House of Representatives on a legislative amendment to ban demonstrating with face-covering clothing, sent in 10 January 2025 a letter to parliament³². In that letter, the government pledged to explore the possibilities of a legal ban on face-covering clothing.

Lastly, in the coming years the EU directive and EU recommendation on SLAPPs will be implemented. The amendment of the Civil Procedure Act is the responsibility of the Ministry of Justice and Security. Policywise it will be a shared responsibility of the ministry of Justice and Security, ministry of Interior and Kingdom Affairs and the ministry of Education, Culture and Science, supported by the ministry of Foreign Affairs.

- *Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)*

³⁰ Kamerstukken II 2023-2024, 34 324 nr. 12.

³¹ Bijlage bij Kamerstukken II 36 471 nr. 96, <https://www.rijksoverheid.nl/regering/regeerprogramma>, p. 101.

³² Kamerstukken II 2024-2025, 34324 nr. 14.

The plenary debate on the proposed modification (nota van wijziging) to the draft bill on transparency of civil society organisations (Wet transparantie maatschappelijke organisaties, Wtmo) is currently planned for 4 February.

E. Initiatives to foster a rule of law culture

See recommendation 5.