



ECF Rule of Law contribution 2025

Netherlands

*By **Breed Mensenrechten Overleg** – a platform for 20+ Dutch human rights and development organizations, connecting civil society and decision makers to protect human rights worldwide.*

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Key civic space trends

- Right to protest significantly threatened by surveillance, mass arrests and negative political rhetoric
- Major funding cuts across civil society sector; threats to funding of critical CSOs
- Legislative proposals increasing political oversight and administrative burden of CSOs
- Political misinformation and insidious anti-rights framing has led to increased stigmatisation of CSOs

Summary

Dutch civic space has been downgraded from open to narrowed,¹ due to repression of peaceful assembly with disproportionate response (mass arrests, excessive force, surveillance). This took place against the backdrop of the mainstreaming far-rights ideas, coupled with political, legislative and financial attacks on civil society. Harassment and attacks of civic actors (on- and offline), in particular marginalised groups (refugees and migrants, LGBTQI+ and racialised communities),² as well as those protecting and advocating for the rights of these groups, remain a persistent problem.

In its 2024 Rule of Law Report, the European Commission made no recommendations related to civic space. It however noted “shortcomings” regarding restrictions to the right to demonstrate. This trend continued in 2024. Palestine solidarity actions, particularly student encampments, and climate actions have been met with aggressive response. Restrictions included surveillance, excessive use of force and mass arrests, which were paired with politicians’ calls for more aggressive prosecution of protesters, accusations of antisemitism & support of terrorism, foreign influence, and conflation of protests with unrelated riots. Legislators have proposed multiple blanket prohibitions of peaceful assembly at certain times or in certain areas, introducing new, generic grounds for prohibiting action (“disrupting public order”),³ disregarding internationally established legal standards for determining limitations of the right to peaceful assembly.

In addition, civil society faced significant funding challenges. These include a proposal to scrutinise CSOs for foreign influence via their funding sources, denial of state funding to organisations that are critical of the government and budgets cuts for civil society across multiple sectors.

Institutional, political and socio-economic landscape

¹ https://monitor.civicus.org/globalfindings_2024/

² Ministry of Culture, Education and Science, Lhbtqi+-monitor 2024: De leefsituatie van lhbtqi+ personen en opvattingen over lhbtqi+ personen in Nederland, 6 November 2024. COC-blog, <https://coc.nl/blog/2024/11/06/onderzoek-regenbooggemeenschap-ervaart-meer-haat-onveiligheid-en-discriminatie/>, 6 November 2024.

³ “Orde-verstorend”. Despite calls from parliamentarians to keep to established definitions for protected forms of direct action (e.g. peaceful protest), the government and coalition parties persist with their new framing of “disruptive to the public order” as unprotected action.

On 2 July 2024, the Cabinet – Schoof was sworn in. This new cabinet consists of right-wing (and partly extremist) parties.⁴ The newly elected government has introduced budget cuts and various legislative measures that are reducing the enabling environment for civil society in the Netherlands. In addition to the content of their proposals, the government has abandoned established consultative practices for new legislation. They have attempted to push through “emergency legislation” based on unsupported claims of a refugee crisis, disregarded legal and constitutional concerns raised by the Council of State, and provided inadequate time for input from both government, advisory and civil society actors.

The government drastically and unexpectedly cut financing for civil society organisations (CSOs) through the main development and human rights financing instruments, decimating essential work and partnerships built over years. These cuts were especially painful when accompanied by politicians’ language which stigmatises the legitimacy of an independent, critical civil society and the value of including Dutch organisations in partnerships with local civil society. A pivot away from negatively politicised issues like sexual & reproductive health rights, LGBTQI+ rights, women’s and girls’ rights is signalling the government’s doubtful commitment to the universality and indivisibility of human rights. Although the budget was proposed in September, there is still no new policy framework for development aid instruments supporting civil society, adding to the uncertainty. In one case, public pressure led the government to partially abandon budget measures aiming to strip donations to charities of their tax-exempt status.

Multiple legislative proposals would introduce significant limitations and administrative burden to the financing and work of NGOs. Regardless of voting outcomes, and quite significantly, debates on these measures are often taken as an opportunity to stigmatise and question the legitimacy of (politically engaged or critical) CSOs and their actions.

In addition to proposed changes to the law on demonstrations (*Wet Openbare Manifestaties*), the government has fast-tracked proposals for a law aimed against foreign influence targeting CSOs (*Wet Transparantie Maatschappelijke Organisaties*), changes to legislation limiting access to the courts in cases of public interest litigation (*Wet afwikkeling massaschade in collectieve actie*), and legislation introducing an administrative prohibition of “subversive” organisations (*Wet Bestuurlijk Verbod Ondermijnende Organisaties*). Members of parliament have additionally proposed limiting civil society and journalists access to the UBO-register by raising the threshold for “legitimate interest.”

Civil society supports the nominal goals of these proposals – increased safety, defence against foreign influence, increased transparency and safeguarding privacy. However, the proposals are not proven to be effective in their stated aims, are based on vague norms, include disproportionate powers and inadequate safeguards, impose a high administrative burden and open the door to potentially selective application. When read together, these echo early warning signs of democratic erosion, concentration of power, and risk of undemocratic silencing of critical voices.

Political polarisation, misinformation and insidious anti-rights framing have increased stigmatisation of NGOs and mainstreamed scepticism about their independence and the legitimacy of their work. Coupled with dramatic funding cuts, the first signs of a chilling effect among donors and organisations have been observed; self-censoring (abandoning certain

4 Parties including the Party for Freedom (PVV), the People’s Party for Freedom and Democracy (VVD), New Social Contract (NSC), and the Farmer–Citizen Movement (BBB).

language, issues or activities) and division between more and less “activist” initiatives. These warning signs of shrinking civic space and democratic erosion have energised civil society to form broader alliances to learn from partners around the world experiencing similar pressures. In the face of this escalating pressure, Dutch civil society has joined in coordinated efforts to defend civil liberties and the rule of law.

Regulatory environment for civic freedoms

Freedom of association

The Netherlands has a diverse yet organised civil society – since 2019 there have been more than 40,000 foundations and associations registered with the Chamber of Commerce.⁵ In 2023, 40% of the population (15+) claimed to have spent at least one day as a volunteer with a CSO in the past year. Of those, 30% claimed to have volunteered in the past 4 weeks.⁶

High Administrative Burden

The increasing complexity of laws and regulations in the Netherlands has led to high administrative burdens which takes a toll on the capacity of CSOs. Several prominent civil society networks and umbrella organisations (i.a. Goede Doelen Nederland, NOV, HSC, Wo=Men) have raised these concerns. Their efforts have resulted in multiple ministries commissioning research on administrative burdens and potential solutions. The final report was published in June 2023, concluding that the government indeed needs to work on reducing and simplifying regulations.⁷ Parliament is currently considering a proposal to make the temporary Dutch Advisory Board on Regulatory Burden a permanent agency, although their involvement in the legislative process and obligatory nature of their advice remains unclear.⁸ Engagement with the government and parliament to require legislative proposals to address the issue of administrative burden, e.g. on businesses and CSOs are ongoing. Considerations of administrative burden of new legislative proposals in legislation and practice are ongoing.

Legislation targeting CSOs

Following the intentions of the new government, as outlined in the national security chapter of their coalition agreement, it is exploring ways to develop a “smart ban on unwanted foreign financing of Dutch associations, foundations, churches or informal organisations.”⁹

The draft law on transparency of civil society organisations (*Wet Transparantie en tegengaan ondermijning door Maatschappelijke Organisaties* or “WTMO”)¹⁰ is currently under consideration in

5 <https://ondernemersplein.kvk.nl/bedrijfsvoering/rechtsvormen-en-organisatie/de-stichting/>

6 <https://www.cbs.nl/nl-nl/longread/rapportages/2024/vrijwilligerswerk-2023>

7 <https://www.rijksoverheid.nl/documenten/rapporten/2023/06/19/rapport-regeldruk-bij-vrijwilligersorganisaties-en-filantropische-istellingen> .

8 <https://www.adviescollege.nl/over-ons/ontstaansgeschiedenis>.

9 <https://www.tweedekamer.nl/downloads/document?id=2024D19455>, p. 21.

10 <https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorsteldetails&qry=wetsvoorstel%3A35646>

Parliament. Despite widespread criticism, including from the Council of State, the law was fast-tracked in the new government's coalition agreement. Nominally aimed at fighting foreign influence through civil society organisations, it introduced vague norms, far-reaching administrative powers and excessive administrative obligations for donor registration. Concerns raised regarding the WTMO, echo those of European civil society regarding foreign agents laws and the proposals for an EU foreign funding directive. Although the WTMO does not use foreign funding as an explicit criteria for measures, the language of the proposal, explanatory memorandum and other related communication highlight the use of the WTMO as a tool against undesired foreign influence through funding for CSOs.

The proposed law would grant local mayors the authority to request insight into an organisation's financial records, on suspicion that they are carrying out activities that undermine the rule of law or public order. If organisations do not comply, far reaching sanctions can be imposed such as fines, or a request by the public prosecutor for the suspension of an organisation's activities for up to 2 years. The law includes a *de facto* obligation for organisations to keep detailed donor records for seven years. This, combined with unclear rules on which government agencies would have access to the information shared with a mayor, raises serious concerns about data protection.

The proposed legislation lacks clear definitions and criteria for administrative measures against organisations and lacks clearly defined legal remedies for targeted organisations. Finally, the necessity for these measures, in addition to existing local safety trilogues (including law enforcement, mayors and prosecutors) and AML/CFT measures are questionable. By singling out the non-profit sector for scrutiny as a security risk and implying that the source of funding is linked to influence over programming, the law unnecessarily stigmatises civil society. The stigmatisation, administrative burden and privacy concerns for civil society will almost certainly have a chilling effect on donors and volunteers.¹¹

Prohibition of organisations

A draft law on administrative prohibition of organisations undermining public order (*Wet bestuurlijk verbod ondermijnende organisaties* or "WBVOO")¹² is awaiting confirmation by the Senate. The aim of the law is to provide the government with supplementary measures, when criminal law is insufficient against organizations actively undermining public safety. The outlawing of motorcycle gangs as the most common example used in discussions of the potential of the law. Under the law, the power to ban an organisation by decree is given to the justice minister (*rechtsbescherming*), a political actor. The law would allow the minister to take such action "when it is required in the interest of public order and the organisation creates, exacerbates or maintains a culture of lawlessness". Under current rules, dissolution of an organisation may only be granted by a judge when requested by the public prosecutor.¹³

Similarly to the WTMO discussed above, this law introduces far-reaching enforcement powers (prohibition of an organisation) with new, unclear norms, limited legal redress and carries the same

¹¹ <https://publicaties.mensenrechten.nl/publicatie/78518667-2445-4fe1-9a6d-1370abc7a5a4>.

¹² https://www.eerstekamer.nl/wetsvoorstel/35079_initiatiefvoorstel_mutluer

¹³ Art. 2:20 para. 1 of the Civil Code.

risks for selective application to silence critical voices. Considering the attacks on CSOs in general and individual activists and organisations the last year, this is alarming.

Intimidation and smear campaigns

The political discourse surrounding watchdog organisations, NGOs, civic activists, and protest groups is becoming increasingly negative. Instead of recognition of their role as essential contributors to a healthy democracy, critical NGOs are often portrayed as adversaries advancing foreign or illegitimate agendas.

Some politicians and media outlets exacerbate this narrative by fuelling or initiating smear campaigns against NGOs and individual activists. For example, misinformation spread by Forum for Democracy MPs about a sexual education week in primary schools led to intimidation of the staff from the sexuality education centre, Rutger Institute.¹⁴ Similarly, baseless accusations against a PAX staff member, stemming from an Israeli state report, were uncritically echoed by Dutch political parties and media, enabling an unprecedented attack on local NGOs by a foreign state.¹⁵ Parliament passed a motion to remove the tax-exempt status of climate action group, Extinction Rebellion for donations they receive, although this decision falls under the purview of the Tax Authority who claims no grounds for such action.¹⁶

The PVV party, now a member of the ruling coalition, has called for halting state funding to NGOs in response to specific actions, such as a lawsuit opposing the delivery of F-35 jet parts to Israel.¹⁷ Despite their longstanding partnership with the Dutch foreign affairs ministry and their invaluable expertise, these organisations face growing challenges to their credibility.

These developments coincide with the increasing criminalisation of peaceful protests, signalling a shift toward suppressing dissent and narrowing the space for independent and critical civil society voices. Instead of supporting civic activism, the narrative now favours selective approval of certain perspectives while undermining others.

Freedom of peaceful assembly

The freedom of peaceful assembly is generally well regulated in accordance with human rights treaties, i.e. with the Act on Public Manifestations (*Wet Openbare Manifestaties*). But in practice, the right to protest has come under increased pressure and public scrutiny. Prohibitions of protests and, of certain slogans or symbols, a conflation of disruptive action with truly dangerous action,

14 <https://pointer.kro-ncrv.nl/hoer-misinformatie-de-online-haatchmachine-tegen-de-week-van-de-lentekriebels-op-gang-trok>

15 <https://paxforpeace.nl/news/criticism-on-israel-should-be-allowed/>

16 <https://www.tweedekamer.nl/kamerstukken/detail?id=2025Z01001&did=2025D02293>; <https://nos.nl/artikel/2553608-kamer-wil-belastingvoordeel-extinction-rebellion-schrappen>

17 <https://zoek.officielebekendmakingen.nl/blg-1138000.pdf>

excessive force, surveillance and prosecution of protesters had created an atmosphere of fear and tension surrounding direct action.

Developments of the past few years have led to “securitization” of the public discussions of the right to peaceful assembly and a consistent inclusion of a distinction between peaceful demonstrations and “disruptive actions”. The current government’s coalition agreement includes the explicit goal of “making a sharper distinction *between peaceful demonstrations and actions disrupting public order*.”¹⁸

This distinction introduces a new, vague norm, which deviates from established standards for protected action and peaceful assembly. This has an inherently negative impact on public discourse, law enforcement, policymakers and protesters themselves.

In April 2024, the Dutch internal affairs minister and of justice and security minister announced an investigation into the right to freedom of peaceful assembly, more specifically into the question whether the legal framework concerning the right to demonstrate still corresponds to current developments.¹⁹ The ministers reasoned that in light of increasing protest action, “demonstrators often deliberately seek out or exceed the boundaries of the law or in which other fundamental rights or national security may be compromised.” This in addition to an ongoing evaluation of the law on public manifestations.²⁰

Disruptive demonstrations and those which endanger national security, or the rights of others are main subjects of this investigation. Explicit references are made to the roadblocks of Extinction Rebellion and farmers’ protests, as well as protests “in the context of the Israel-Palestine conflict.”²¹ The motive behind this study is to investigate “the possibilities of strengthening the action perspective of all parties involved and the durability of the legal framework”, in order to strengthen and maintain the right to demonstration.²² This security-oriented focus on the right to demonstration endangers compliance with international human rights standards. A report of Amnesty International Netherlands raises concerns about bans of expressions deemed “shocking” and non-criminal protest signs, constituting a form of censorship; the imposition of restrictive measures on the organisation of protests to avoid traffic disruptions, an unlawful restriction of the right to demonstrate; and unnecessarily complicated notification procedures differing from municipality to municipality.²³

Furthermore, emergency orders or emergency regulations are sometimes used by mayors to prohibit or disband protests.²⁴ Under these emergency regulations local authorities are granted extensive powers, leading to unnecessary and illegal identification of protesters, as well as arrest or excessive force.²⁵ An example of egregious violence was the breakup of a student encampment

18 <https://www.tweedekamer.nl/downloads/document?id=2024D19455>, p. 22.

19 <https://www.rijksoverheid.nl/actueel/nieuws/2024/04/19/kabinet-laait-onafhankelijk-onderzoek-doen-naar-demonstratierecht>

20 https://www.eerstekamer.nl/kamerstukdossier/evaluatie_wet_openbare

21 <https://open.overheid.nl/documenten/14d4c321-0294-430a-bcd6-0ab0bc0fdb06/file>.

22 Idem, p. 19.

23 https://www.amnesty.nl/content/uploads/2022/11/AMN_22_33_demonstratierecht-onder-druk.pdf?x84346

24 AMN_22_33_demonstratierecht-onder-druk.pdf, p. 51 and further.

25 Ibid, p. 51 and further.

with a bulldozer at the University of Amsterdam, with the Dutch Scholars for Palestine reporting excessive force.²⁶

Amnesty International Netherlands has also raised concerns of excessive surveillance of protesters in violation of human rights standards. “The manner and extent of surveillance may violate protesters’ privacy, have a discriminatory impact and deter people from choosing to exercise their rights as protesters.”²⁷ Equally concerning are infiltrations of online communication of Extinction Rebellion.²⁸ Common practices of mass arrests, “administrative displacement” (*bestuurlijke verplaatsing*)²⁹ and so-called *kettling* of protesters have been criticized as rights violations. This stands in contrast to differentiated responses to peaceful – protected- action and criminally prohibited action.³⁰ The government is currently exploring the possibility of extending the current ban on full face covering (in health and education institutions, government buildings)³¹ to include demonstrations. A majority of the house of representatives requested such a ban in September 2024 and the cabinet will investigate its legal feasibility and enforceability.³²

2024 saw multiple examples of criminalisation of protesters and banned protests, most notably a week-long ban on protests by the Amsterdam municipality after the riots involving Israeli football supporters and local youth in November.³³ Legal experts agree that this measure interferes with relevant provisions of the Dutch Constitution and the European Convention on Human Rights.³⁴ Protesters disregarding the ban reported that police used excessive violence with an investigation launched into police misconduct after online footage circulated on social media.³⁵ In another example, several members of Extinction Rebellion (XR) have been preventively detained before the start of a climate demonstration and were eventually prosecuted for sedition.³⁶ Organisers of a student protest at the university of Utrecht cancelled their action after the municipality suggested the protest was at “risk of being overshadowed by (violent) pro-Palestinian action”; without clarifying the risks which remained unclear.³⁷ Other municipalities have attempted to prohibit XR protesters from mentioning “developments in the Middle East”,³⁸ while others have faced excessive fines of thousands of euros in an attempt to prevent protesters from further peaceful civil

26 <https://www.aljazeera.com/news/2024/5/7/police-break-up-pro-palestine-protests-at-berlin-amsterdam-campus>.

27 <https://www.amnesty.org/en/documents/eur35/8469/2024/en/>

28 <https://www.platform-investico.nl/onderzoeken/onderzoek-demonstratierecht-in-de-knel/politie-keek-heimelijk-mee-in-chatgroepen-van-extinction-rebellion>.

29 Roorda B., Brouwer J., “Bestuurlijke verplaatsing bij demonstraties”, *Ars Aequi* magazine, June 2022, pp. 452 – 456.

<https://pure.rug.nl/ws/portalfiles/portal/226283579/AA20220452.pdf>

30 <https://www.amnesty.nl/wat-we-doen/demonstratierecht-in-nederland/de-rol-van-de-politie>.

31 <https://www.rijksoverheid.nl/onderwerpen/gezichtsbedekkende-kleding-in-de-media-boerkaverbod/gezichtsbedekkende-kleding-gedeeltelijk-verbieden>

32 <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2024Z13905&did=2024D34108>

33 <https://www.bbc.com/news/articles/cx243z69w4no>.

34 Frank Rensen, Extension of Amsterdam Protest Ban Likely to be Overturned, Experts Say (Verlenging Amsterdams demonstratieverbod houdt waarschijnlijk geen stand, denken experts), *De Volkskrant*, 11 November 2024.

35 <https://www.amnesty.nl/politiegeweld-in-nederland>.

36 <https://www.amnesty.org/en/documents/eur35/6650/2023/en/>

37 See Landelijke Studenten Vakbond (Netherlands), Statement on Cancellation of Protest on 14 November: An Alternative for Students to Protest (Statement Landelijke Studenten Vakbond Afbazen Protest 14 Nov: Er Komt Voor Studenten Een Alternatief Om Alsnog Te Protesteren), 13 November 2024, <https://lsvb.nl/2024/11/13/statement-landelijke-studentenvakbond-afblazen-protest-14-nov-er-komt-voor-studenten-een-alternatief-om-alsnog-te-protesteren/>.

38 <https://www.1twente.nl/artikel/4486764/verbod-om-over-gaza-te-praten-bij-flyeractie-klimaatactivisten-xr-twente-in-hengelo-blijkt-fout-in-brief-van-de-gemeente>.

disobedience actions. The district court found that these fines violated the right to protest and the Law on public manifestations.³⁹

Freedom of expression and the right to privacy

The Netherlands enjoys relatively robust protections of freedom of speech and expression, academic freedom and media freedom. Some foreign speakers have been refused entry on ground of maintaining public order because of their presumed message of hate or inciting violence, including an Imam from Australia,⁴⁰ a British conspiracy theorist,⁴¹ and a Palestinian radical activist.⁴² All were able to speak to crowds through digital means, raising questions about the effectiveness of an entry ban.

Civil society has raised particular concern at the frequent accusation of antisemitism towards those speaking out in solidarity with Palestinians and against Israeli war crimes. Although there have been multiple Parliamentary motions calling for the prohibition or criminalisation of the phrase “From the River to the Sea”- as antisemitic, this has been contradicted by the courts.⁴³

In an effort to fight disinformation and hate, the government has proposed a draft law on Inspections of informal education (open for consultation). This would allow the education inspectorate to monitor and react to informal education programs (e.g. diaspora- or religious communities) who spread discriminatory messages or hate. However, the broad scope of the proposed measure can open the door to excessive surveillance of legitimate activities, seriously infringing freedoms of expression, religion, education and association. The lack of sufficient safeguards against abuse of these measures has raised serious concerns, in light of ongoing discrimination and overreach by law enforcement and government agencies against the -Palestine solidarity movement or Muslim religious communities.⁴⁴

Media freedom

Media freedom organisations have raised concerns about a regressing media environment. They point to an increase in incidents of violence against journalists, the normalisation of harmful political rhetoric questioning the integrity and independence of media and journalists, as well as financial measures including large budget cuts at the public broadcaster, the coalition’s plans to increase the VAT rate for print and online media, and inadequate draft legislation to implement

39 Rechtbank Noord-Holland (the Netherlands), Judgment of 12 August 2024, <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Noord-Holland/Nieuws/Paginas/Geen-last-onder-dwangsom-voor-demonstranten-Extinction-Rebellion-in-Haarlem.aspx#:~:text=Geen%20last%20onder%20dwangsom%20voor%20demonstranten%20Extinction%20Rebellion%20in%20Haarlem,-Haarlem%2C%2015%20augustus&text=De%20burgemeester%20van%20de%20gemeente,oordeelt%20de%20rechtbank%20Noord%2DHolland..>

40, <https://nos.nl/artikel/2505407-omstreden-islamitische-prediker-toegang-tot-nederland-geweigerd>

41 <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Noord-Holland/Nieuws/Paginas/Inreisverbod-David-Icke-blijft-van-kracht.aspx#:~:text=De%20staatssecretaris%20van%20Justitie%20en,vormt%20van%20de%20openbare%20orde.>

42 <https://nos.nl/artikel/2545940-geweerde-pro-palestijnse-activist-khatib-sprekt-via-video-in-wageningen>

43 Court of Amsterdam, 15 August 2023, ECLI:NL:GHAMS:2023:2271

44 See e.g. the recent report of the Amsterdam Metropolitan Ombudsman, “On slippery ice”, determining discrimination and abuses by the municipality against the local Muslim community, 4 February 2025. https://sociaalweb.nl/wp-content/uploads/po_assets/1037931.pdf

the European anti-SLAPP (Strategic Lawsuits Against Public Participation) directive. The proposed VAT increase, from 9% to 21% for print and online media would have far-reaching implications for the media pluralism and access to independent information. Some independent research has estimated a decrease of 10% in purchases and subscriptions, leaving 270,000 households without regular access to print & online media, and leading to a cut of almost 400 journalist positions.⁴⁵ The Council of State has also criticized the proposal because of its potential effects on media pluralism.⁴⁶

As in other areas, politicians from (far) -right parties in government apply pressure to media freedom with calls to investigate, prohibit, or otherwise interfere with free media, e.g. the PVV's call to abolish the public broadcasting network altogether.⁴⁷ This has been resisted by the government, with the Minister of Education, Culture and Science emphasising that freedom of expression and freedom of speech as fundamental pillars of media independence, and that censorship and prior supervision of the content of media are not permitted in the Netherlands.⁴⁸ Although these calls are adequately disputed by the government, normalisation of "anti-media" rhetoric is alarming.

In April 2024, Free Press Unlimited published a research report investigating the impact of legal pressure on Dutch journalism.⁴⁹ The research shows that increasing legal pressure on media and individual journalists in the Netherlands creates psychological and financial pressure, leading to self-censorship. Freelance journalists and smaller media outlets are most impacted. The legal pressure was in some cases severe: penalty payments of tens of thousands of euros and threats to seize a journalist's house. A 2024 report of the Coalition against SLAPPs in Europe found 12 SLAPP cases in the Netherlands in previous years and recommended the introduction of special provisions in Dutch law to protect targets of SLAPPs.⁵⁰

In early October, the justice and security ministry published a draft law for implementing the EU anti-SLAPP directive. According to the Dutch Anti-SLAPP working group⁵¹ as part of the Coalition against SLAPPs in Europe (CASE), the proposed law does not provide sufficient protection for victims of SLAPPs and falls below minimum requirements of the directive and far from Council of Europe (CoE) recommendations. The proposal lacks explicit definitions and indicators of a SLAPP, maintaining current "abuse of procedure provisions" that do not meet the reality facing journalists.

45 <https://www.ndpnieuwsmedia.nl/2024/09/11/btw-verhoging-ontneemt-270-000-huishoudens-toegang-tot-journalistiek-slechts-14-procent-van-de-nederlanders-steunt-btw-maatregel/>

46 <https://www.rijksoverheid.nl/documenten/kamerstukken/2024/09/17/nader-rapport-wetsvoorstel-belastingplan-2025>

47 <https://nvj.nl/actueel/world-press-freedom-index-2024-politieke-druk-vrije-journalistiek>

48 <https://www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2024Z15183&did=2024D41932>

49 <https://www.freepressunlimited.org/sites/default/files/documents/Een%20onderschat%20probleem%2C%20disproportionele%20juridische%20druk%20op%20de%20Nederlandse%20journalistiek.pdf>

45 https://www.the-case.eu/wp-content/uploads/2024/12/CASE-2024-report-vf_compressed-1.pdf

51 The Dutch anti-SLAPP working group consists of the following members: Free Press Unlimited; Boekx Advocaten; Prakken d'Oliveira; prof. Tarlach McGonagle; Greenpeace International; Nederlandse Vereniging van Journalisten; NDP Nieuwsmedia; Amnesty International Nederland; Netherlands Helsinki Committee.

Its application is limited to cross-border cases, and it offers limited access to remedy (e.g. early dismissal of proceedings and full compensation).

In addition to legal abuse, journalists face online and offline harassment. In the period 2020-2023, a total of 722 reports were received by PersVeilig (*Press Safety*), a joint initiative of law enforcement, the government and representatives of journalists.⁵² The majority of these concerned ‘threats’ (58%), followed by ‘physical violence’ (19%) and ‘stalking/harassment/ intimidation’ (10%). Almost two-thirds of the reports were made by freelance journalists. The government has committed additional funding to the initiative for Press Safety.⁵³

Finally, journalists may face pressure to expose sources.⁵⁴ Journalists cannot effectively execute their role as the watchdogs of power when they cannot credibly protect the confidentiality of their sources. Sources and whistleblowers should be confident that journalists will treat the identity of the source and background information they share with journalists with care and, where necessary, with confidentiality.

Safe space

Restricting access to justice for civil society

Since the 1980's, the Dutch legal system allowed foundations and associations to start civil proceedings in the public interest or the interests of third parties. Such public interest litigation is an important avenue to ensure legal redress for vulnerable groups and, an important tool for judicial review of government policy. More recently, the Dutch Act on Collective Action (*Wet afwikkeling massaschade in collectieve actie* or “WAMCA”), in force since 2020, has been changed, introducing procedural and practical limitations on access to justice for civil society.⁵⁵ Newly introduced admissibility requirements and procedural steps have negatively impacted litigation in the public interest (e.g. minority or climate rights). A more stringent admissibility regime is sometimes used with respect to public interest proceedings. It introduces a requirement of “representativeness” for public interest litigation and limits the application of a judgement to individuals who signed on to the collective action. Because a final judgement from national courts is a prerequisite for access to regional human rights courts, those not included in the collective action may be precluded from access to those courts for human rights protection..⁵⁶ Although inadvertent, these restrictions place a heavier burden on non-governmental organisations to launch a collective action, as these proceedings have become more complex, costly, and lengthier.⁵⁷

⁵² <https://persveilig.nl/>.

⁵³ <https://www.rijksoverheid.nl/actueel/nieuws/2024/11/27/extra-investeringen-in-persveiligheid>

⁵⁴ <https://nos.nl/artikel/2545940-geweerde-pro-palestijnse-activist-khatib-sprekt-via-video-in-wageningen>, <https://www.villamedia.nl/artikel/zembla-journalist-roelof-bosma-wil-bronnen-beschermen-en-weigert-getuigenverhoor>

⁵⁵ The WAMCA already narrows access to the courts under the general Civil Code art. 3:305a) that allowed public interest litigation via class action, with exceptions for the “representativity” criteria in cases of NGO claims in the public interest. <https://www.ejiltalk.org/public-interest-litigation-before-domestic-courts-in-the-netherlands-on-the-basis-of-international-law-article-3305a-dutch-civil-code/>

⁵⁶ De-Obstakels-van-de-WAMCA-voor-Ideele-Acties-BCW_PILP_Rapport_2024.pdf

⁵⁷ Ibid.

Starting with a motion adopted by Parliament in 2023, there have been continuous calls to limit NGO access to the courts for strategic litigation.⁵⁸ The current cabinet has expressed the intention of investigating possibilities for imposing stricter requirements on CSOs involved in legal actions, in particular against the state.⁵⁹ This issue has been included in a broader evaluation of the WAMCA, expected to be published in 2025.

Civil society has raised concerns that these proposals could raise the already limiting threshold of accessing justice, at odds with the principles of the democratic constitutional state and access to justice jurisprudence (eg. Art. 13 ECHR, Art. 9 Aarhus Convention).

Threats to cut funding due to lawsuit against the state

Multiple MPs have proposed cutting funding for NGOs that litigate against the state.⁶⁰ One filed a motion to cut funding for a number of NGO's due to proceedings brought against the state related to Dutch exports of weapons parts to Israel, despite risk of their use for war crimes. This was accompanied by multiple parliamentary questions, based on demonstrable disinformation – such as the claim that public funds are being used to support litigation against the state. ⁶¹

More recently, the asylum and migration ministry unexpectedly and suddenly denied a request for additional funding to the Dutch Refugee Council (DRC), the largest provider of legal aid to asylum seekers and refugees. Since the decision did not confirm with years'-long established practice and denied the DRC adequate time to adjust to less funding, the Amsterdam District Court granted (temporary) relief and ordered the government to continue financing for a number of weeks after the decision on appeal has come into force.⁶² This unprecedented move may follow the far-right playbook, but may be due to the critical position and ongoing litigation against violations of refugee rights brought and supported by the DRC., e.g. via their Committee on Strategic Litigation.⁶³

Pressure on lawyers

Inadequate funding and capacity for robust legal aid⁶⁴ and pressure on lawyers involved in public litigation compound issues highlighted above.

Research commissioned by the Dutch Bar Association revealed that 55% of lawyers faced aggression, threats and/or intimidation at least once in 2024.⁶⁵ Public officials, politicians, and media increasingly use harmful rhetoric against lawyers working on politically sensitive cases, discrediting their professional activities. In parliamentary debates, politicians referred to lawyers representing environmental NGOs in strategic litigation against the state as "*activistic lawyers*,"⁶⁶

58 See e.g. Motion passed in Parliament calling for a higher threshold for advocacy organizations to bring proceedings, claiming they are often "negligibly representative" of the group whose interest they claim to be working for. Notably, the motion was raised and passed in the context of debating new climate legislation. 13 February 2024.

59 See e.g. <https://open.overheid.nl/documenten/ronl-f525d4046079b0beabc6f897f79045ccf2246e08/pdf>, p.85

60 [vml0co3b60xx.pdf](https://open.overheid.nl/documenten/vml0co3b60xx/pdf)

61 [blg-1138000.pdf](https://open.overheid.nl/documenten/blg-1138000/pdf)

62 Court of Amsterdam, 14 February 2025, Temporary injunction, ECLI:NL:RBAMS:2025:919.

63 <https://www.vluchtelingenwerk.nl/nl/wat-wij-doen/opkomen-voor-vluchtelingen/strategisch-procederen>.

64 <https://www.advocatenorde.nl/nieuws/inbreng-nova-begrotingsbehandeling-justitie-en-veiligheid>.

65 www.advocatenorde.nl/document/rapport-agressie-bedreiging-intimidatie-advocaten-definitief.

66 House of Representatives (The Netherlands), Plenary report 41st meeting (Plenaire Verslag 41e vergadering), 13 February 2024, contribution to the debate by Mr. De Roon, Member of the Dutch Parliament (PVV; Party for Freedom), www.tweedekamer.nl/kamerstukken/plenaire_verslagen/detail/2023-2024/41.

and sought to restrict access to Immigration and Naturalisation Service (IND) practices to prevent asylum lawyers “using them again.”⁶⁷ Immigration lawyers are more often viewed as profiting from the ‘asylum industry’ rather than simply acting in their clients’ best interest. In one case, the Dutch prosecutor’s office unlawfully prosecuted two immigration lawyers for fraud and human trafficking based on their legitimate legal assistance to Turkish migrants and asylum seekers.⁶⁸ Media coverage characterised the lawyers’ activities as “legal tricks”⁶⁹ and falsely accused the lawyers of “unethical behaviour,”⁷⁰ as later rebutted by the president of the Dutch Bar Association.⁷¹

There is also increasing pressure on lawyer-client confidentiality. The 2023 amended bill to the Penitentiary Principles Act, aimed at combatting organised crime, proposed visual supervision of lawyer-client meetings in high-security prisons and limits the number of lawyers per client to two.⁷² A proposed Parliamentary amendment to the bill that would allow for auditory monitoring was found to be unconstitutional and incompatible with European standards⁷³. A revised proposal excluding auditory monitoring remains⁷⁴. Leadership of the Bar Association has criticized interference in one of the foundational elements of the justice system.⁷⁵

Financial viability and sustainability of civil society

One of the most prominent and pressing challenges to civil society have been growing obstacles to funding, in an already shrinking funding landscape. Budget cuts and new, limiting criteria for access to public funding threaten to decimate organizations working on global, human rights, minority and democracy issues. A push towards private donor financing – from large funds or individual community members – is unrealistic when measures complicating access to donations and crowdfunding are also being introduced. These measures have had lesser impact on sport, cultural- and other traditional charities in comparison to human rights, climate or other activist organisations. However, CSOs have benefitted from collaboration and solidarity across the sector.

Budget cuts and additional restrictions on state-funding

The new government has announced plans to significantly cut the budgets for civil society across multiple sectors. The cross-cutting nature of the cuts leaves no area of civil society completely untouched – cuts in the foreign affairs, education, cultural and health care budgets will also affect CSOs advocating for and meeting the needs of vulnerable communities.

67 House of Representatives (The Netherlands), Plenary report 66th meeting (Plenaire verslag 66e vergadering), 17 April 2024, contribution to the debate by Mr. Brekelmans, Member of the Parliament (VVD; Party for Freedom and Democracy), www.tweedekamer.nl/kamerstukken/plenaire_verslagen/detail/2023-2024/66.

68 Court Amsterdam (The Netherlands), Judgment of 7 June 2022, ECLI:NL:RBAMS:2022:3127, (Seizure of physical files and data carriers under lawyer as suspect), <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBAMS:2022:3127&showbutton=true&keyword=mensenhandel,immigratie,IND,Turks&idx=3>

69, www.nrc.nl/nieuws/2024/05/20/een-advocaat-is-partijdig-en-onafhankelijk-a4199369

70 www.nrc.nl/nieuws/2024/05/01/procederen-als-dekmantel-is-onethisch-gedrag-a4197562.

71 www.nrc.nl/nieuws/2024/05/20/een-advocaat-is-partijdig-en-onafhankelijk-a4199369.

72

www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel&qry=wetsvoorstel%3A36372#wetgevingsproces.

73 www.raadvanstate.nl/actueel/nieuws/april/advies-penitentiaire-beginselenwet.

74, www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2024Z08975&did=2024D21089.

75 <https://www.advocatenorde.nl/nieuws/het-verschoningsrecht-de-hoeksteen-van-de-rechtsstaat>.

Most significantly, a massive cut of 70% of the development aid budget will have an irreparable effect on the civil society sector in the Netherlands.⁷⁶ This has been accompanied by increasing the threshold for “own resources” (from non-state funds) from 25% to 50%, an exclusion of lobby and advocacy activities, and a shift towards local partner funding and limited priority topics (food & water, health, humanitarian aid). “Politicised” topics like women and children’s rights, LGBTQI+ rights, refugee rights have been abandoned, except for small carve-outs like the Women, Peace and Security program.⁷⁷ The Minister has argued that the 50% restriction is necessary to make CSOs less dependent on the government, framing it as a test of their legitimacy to be proven with individual donations. These claims are more dubious when paired with the government’s attempts to reduce tax benefits on corporate and individual donations, raising suspicions about organisations accepting foreign funding, and pressure by MPs on prominent institutional donors to abandon cooperation with certain activist organisations.

In particular, an explicit exclusion of lobby and advocacy work from funding threatens to break down established mechanisms of civil society participation, both in the Netherlands, and at multilateral fora (e.g. the UN). This is in direct denial of the inherent duality of CSOs’ role in preventing human rights violations and abuses of power: as watchdogs monitoring and raising the alarm when needed, and in dialogue by advocating for and influencing policy to include due consideration of all communities being impacted. CSOs use their convening power, networks and expertise to gather input from communities that face obstacles in getting decision-makers (governments, corporations) to take their right and needs seriously. CSOs facing compound pressures on their capacity will be limited in their ability to participate in legislative consultations, political dialogues, monitoring the impacts of policy and communicating these impacts back to decision-makers. The process (or lack of) surrounding these changes in development cooperation illustrate the same disregard for established participatory practices. The budget cuts were introduced in a budget proposal in September 2024.⁷⁸ Organisations whose strategic partnerships (and financing) would end in December 2024 were informed in November and offered a hastily organised meeting to respond.⁷⁹ To date, there is no new comprehensive policy framework for development cooperation or funding instruments, only two letters⁸⁰ from the Minister to Parliament containing partial outlines, and requests for thorough consultations have been denied. Civil society is noticing a shift in narrative and strained relationship with traditional partners.

Derisking

In keeping with global trends, Dutch non-profit organisations face issues of limited access to financial services due to “de-risking” activities by financial institutions. Some organisations’ work is hindered by *inordinate delays in cash transfers, onerous due-diligence requirements, the inability to open bank accounts and arbitrary closure of bank accounts*.⁸¹ These practices complicate financial management and jeopardises the stability of funding. These pressures will only increase under

76 <https://www.rijksoverheid.nl/onderwerpen/ontwikkelingshulp/nieuws/2024/11/11/eerste-bezuinigingen-ontwikkelingshulp-bekend-subsidies-ngos-gaan-op-de-schop>

77 <https://open.overheid.nl/documenten/e3e5fe61-0167-446d-8a8e-bf255556457e/file>.

78 <https://www.rijksoverheid.nl/documenten/begrotingen/2024/09/17/xvii-buitenlandse-handel-en-ontwikkelingshulp-rijksbegroting-2025>.

79 <https://www.rijksoverheid.nl/onderwerpen/ontwikkelingshulp/nieuws/2024/11/11/eerste-bezuinigingen-ontwikkelingshulp-bekend-subsidies-ngos-gaan-op-de-schop>

80 November 2024: <https://open.overheid.nl/documenten/e3572cd7-ed09-408e-b375-ab3b50575f91/file>; February 2025:

<https://open.overheid.nl/documenten/e3e5fe61-0167-446d-8a8e-bf255556457e/file>.

81 <https://www.hscollective.org/our-work/projects/de-risking-and-financial-inclusion/>

additional anti-money laundering (AML) and counter-terrorism (CFT) financing rules introduced by the EU, especially the inclusion of crowd-funding platforms in the category of institutions that must meet AML/CFT requirements.⁸²

On a positive note, the Dutch roundtable on financial access for nonprofit organisations brings civil society, financial institutions and banks together to address these challenges.⁸³ The ongoing initiative has already born fruit: a dedicated platform for non-profits at a leading Dutch bank, as well as standardised sector baselines.

Access to donor funding

Several measures have been proposed that would negatively impact CSOs access to funding from individual donors and the private sector. In the Netherlands, non-profit foundations can obtain a public benefit organisation status (*Algemeen Nut Beogende Instelling* (ANBI) from the tax authority, offering certain tax benefits to donors. However, the newly formed Cabinet, announced budget cuts disallowing the charitable donation tax deduction.⁸⁴ Due to political and public pressure⁸⁵ tax benefits for individual donors have been upheld, with a certain category of corporate donation still being excluded.⁸⁶

Civil society welcomed the decision of the economic affairs and climate policy (EZK) minister to exclude CSOs from her stricter rules on door-to-door collections and telemarketing, although the final rules remain to be determined. In a debate in the gambling committee, MPs targeted the financing of CSOs engaging in political advocacy through lotteries; implying that they were i.e. inadvertently financing Hamas.⁸⁷

Civil dialogue and right to participation

Funding cuts and limitations on use of funding precluding lobby and advocacy activities is already drastically limiting civil society's capacity to engage in dialogue with decision-makers. Dialogue with civil society varies between political parties and ministries, with remarkably limited engagement from the asylum and migration and the international trade and development aid ministries. This is due in part to reluctance on the part of civil society to facilitate far-right policies and ministers' (and their party's) attacks on CSOs in public discussions. Even at ministries with traditionally strong partnerships with civil society, pressure on personnel capacity has led to inconsistencies in engagement.

A noticeable change was the decreased time allowed for (online) consultations of legislative proposals. Legislative consultations normally last between six to eight weeks, but the time allocated is sometimes reduced, with the consultation in one specific initiative in the area of counterterrorism only being open for five days. Some egregious examples of the government

⁸² <https://ecnl.org/news/unpacking-eu-amlcft-package-key-insights-and-implications-non-profit-sector>.

⁸³ <https://www.hscollective.org/news/timeline/financial-inclusion-for-npos/>.

<https://www.rijksfinancien.nl/belastingplan-memorie-van-toelichting/2025/d17e2085>.

⁸⁵ <https://goededoelennederland.nl/downloads/over-de-sector/2406-Advies-Behoud-Giftenaftrek.pdf>

<https://ondernemersplein.kvk.nl/aftrek-giften-van-vennootschapsbelasting-niet-meer-mogelijk-in-2025/>

⁸⁷ Motions from two coalition party's targeted at the Postcode Lottery and the freedom of choice in supporting charities; 11 April 2024,

<https://www.tweedekamer.nl/kamerstukken/stemmingsuitslagen/detail?id=2024P06521&did=2024P06521>.

trying to bypass or preclude democratic participation came from the Ministry of asylum and migration ministry. An initial government attempt to introduce a temporary asylum crisis law was stopped by Senate.⁸⁸ As there was inadequate evidence of crisis, this move was criticised by politicians and civil society alike as an abuse of emergency powers.⁸⁹ For example, one news item included the following quote of a Dutch professor of constitutional law, "They are testing the limits of the rule of law. The law is seen here as something that stands in the way and must be circumvented. And with it not only our right, but also the influence of our elected parliament, which must be given the opportunity to have a say in this, especially in the event of drastic measures."⁹⁰ The minister subsequently changed track from invoking state emergency law towards fast-tracking. In their assessment of the fast-tracked proposals for the Asylum Emergency Measures Act and the Two-Status System Act, the Council of State raised concerns about the government's "careless preparation" of legislation, highlighting that "input from citizens, executive organisations and legal practice at an early stage is of great importance in order to arrive at good legislation."⁹¹

Whistleblowers and access to information

Outside of more direct dialogue with decision-makers, the framework protecting access to information and whistleblower protections form important elements of civil society participation.

European whistleblower protections came into force with the Dutch Whistleblower Protection Act (*Wet bescherming klokkenluiders*) in 2023. Although the act brings many improvements, remaining loopholes limit its protective effect. A requirement that "public interest" be at stake before someone has the right to whistleblower protection undermines the law's aims, introducing legal uncertainty.⁹² In order to be effective, the law should also grant the whistleblowers authority the sanctioning power to impose administrative sanctions on those who break or fail to comply with the Whistleblower Protection Act.⁹³

Freedom of information is mentioned in article 110 of the Dutch constitution but not guaranteed. The Open Government Act (*Wet open overheid*), which came into effect in 2022, provides the legal basis for the release of government information, recognising every citizens' right to government information without cause. In practice, however, access to information is obstructed or delayed. Investigations by NGOs show that the average response time by authorities at the level of the central government is 172 days, where the legal maximum is 42 days.⁹⁴ The government points to outdated information management, but multiple NGO's also point to a culture of hesitation at ministries, causing FOI-requests to go through multiple legal and political checks before release, in attempts to protect leadership from challenging questions.⁹⁵ Journalists assume deliberate, politically motivated delays when the legal deadline to process a Woo request is not met and believe that the government does not always apply grounds for exception correctly. Recent years saw various attempts by government authorities to keep internal advice given by government

88 <https://nos.nl/artikel/2540112-eerste-kamer-tegen-gebruik-van-noodrecht-voor-asielmaatregelen>.

89 <https://nos.nl/artikel/2537060-kabinetsplan-om-asielcrisis-uit-te-roepen-leidt-tot-zorgen-en-vraagtekens>.

<https://nos.nl/artikel/2537060-kabinetsplan-om-asielcrisis-uit-te-roepen-leidt-tot-zorgen-en-vraagtekens>.

91 <https://www.raadvanstate.nl/adviezen/@147826/w03-24-00364-ii/>

92 <https://www.transparency.nl/projecten/corruptie-op-onderwerp/klokkenluiden/>

93 Idem.

94 <https://www.imi.nu/userfiles/imi.nu/files/Blaadjes-op-het-spoor-rapport.pdf>

95 Ibid.

officials out of the public's reach, for instance by calling them 'drafts', 'unripe', 'personal opinions' or a threat to the 'unity of the cabinet'.

Another important tool against corruption is access to Beneficial Ownership registers. Public access to the Dutch Beneficial Ownership (BO) registers ended a result of the European Court of Justice ruling in November 2022. The slow pace of restored access for institutions with due diligence obligations under AML/CFT rules poses significant challenges, as financial institutions play a critical gatekeeping role in combating money laundering and compliance with sanctions regimes.⁹⁶ The register remains entirely off-limits to journalists and CSOs, despite the ECJ's explicit recognition that these groups have a legitimate interest in accessing BO information. The Dutch government has consistently denied access to these groups, even when they demonstrate their legitimate interest.⁹⁷ Currently, the legislative proposal would allow those with "legitimate interest" access, but the definition (and processes) have been left to a sub-legislative act (*Algemene maatregel van bestuur*). Certain parliamentarians have called for changes (e.g. sharing requesters personal information with the UBO when a legitimate interest request is made), with the stated goal of raising the threshold for this type of access.⁹⁸

Civil society resilience

Dutch civil society is actively seeking out the advice of partners on early warning signs of shrinking civic space and democratic erosion. Based on their experience we are building broad coalitions, seeking each other out across traditional lines of fragmentation. This has already formed the framework for timely joint response to attacks and commitment to solidarity

We are increasingly aware of our responsibility for educating and raising the public's awareness of the value of civil society as such in a robust democracy with room for a diversity of (critical) voices. Technical policy issues need to be translated to lived realities. A inspiring example is civil society engagement (i.a. Amnesty International, academics, etc.) with local authorities, police "peace brigades" trained in de-escalation,⁹⁹ and protesters themselves, to correct misinformed discussions of protected protest action.

A salient illustration of the energizing effect of seemingly negative developments was the increased visibility for public officials' participation in protests. A highlight were weekly protests of government officials and civil servants at the foreign affairs ministry calling for more decisive actions in support of a ceasefire in Gaza. This brought extra attention to the dilemmas facing civil servants (and academics¹⁰⁰) whose personal beliefs are contradicted by the policies of their employer or (political) leadership.¹⁰¹

⁹⁶ <https://www.transparency.nl/nieuws/2024/05/ontwikkelingen-omtrent-wetgeving-ubo-register/>

⁹⁷ Idem.

⁹⁸ <https://www.tweedekamer.nl/downloads/document?id=2025D06223>.

⁹⁹ <https://www.politie.nl/nieuws/2023/juni/26/04-inzet-vredeseenheden-werkte-de-escalierend.html>.

¹⁰⁰ <https://nos.nl/nieuwsuur/artikel/2519803-kan-een-docent-zomaar-demonstreren-tegen-zijn-eigen-universiteit>.

¹⁰¹ <https://www.volkskrant.nl/binnenland/het-is-voor-ons-ambtenaren-ook-een-worsteling-maar-we-moeten-de-rechtsstaat-beschermen-b5dfe6f6/?referrer=https%3A%2F%2Fwww.google.com%2F>; <https://www.parool.nl/nederland/experts-demonstraties-ambtenaren-buitenlandse-zaken-in-strijd-met-interne-gedragcode-b70b34e8/>.

Despite challenges in access to justice, public interest litigators have continued to play an important part in challenging government policies. Notable successes have been stopping the export of certain weapons to Israel,¹⁰² challenging the government's inadequate environmental protection,¹⁰³ challenging funding stops essential for refugee legal aid,¹⁰⁴ and challenging anti-muslim discrimination by banks.¹⁰⁵

These changes have not gone unnoticed – the National Institute of Human Rights (*College van de Rechten van de Mens*), the Advisory Council on International Affairs (*Adviesraad Internationale Vraagstukken*),¹⁰⁶ the Policy and Operations Evaluation Department (*Internationaal Onderzoek en Beleidsevaluatie*)¹⁰⁷ and the Netherlands Institute of Social Research (*Sociaal Cultureel Planbureau*) all have shrinking civic space on their agendas. Civil society has welcomed the opportunity to share its expertise and experience to facilitate solid, evidence-based conclusions and recommendations. We hope their findings will contribute to a greater awareness of civil society's essential role in a robust democracy and the need to foster an enabling environment.

Recommendations

- Targeted recommendation: Respect the consistent application of established international and Dutch human rights, constitutional and administrative and criminal law norms protecting civil liberties like freedom of expression, association and protest.
- Abandon proposals introducing new measures and vague norms that open the door to political retaliation: from so-called “disruptive actions” limiting protest rights to a CSO’s so-called “undermining” activities triggering increased financial oversight or banning an organization altogether.

- Prevent **budget cuts from having an outsized impact on CSOs**. Prioritize dialogue with impacted CSOs (in the Netherlands and abroad) on new frameworks, and balance this with the need for speedy certainty on future funding and cooperation. Include assessments of human rights and the rule of law impacts in new policy frameworks, budgets and partnerships.

102 Court of The Hague, 12 February 2024, ECLI:NL:GHDHA:2024:191.

103 Court of The Hague, 22 January 2025, ECLI:NL:RBDHA:2025:578.

104 Court of Amsterdam, 14 February 2025, ECLI:NL:RBAMS:2025:919.

105 National Institute of Human Rights, 25 July 2024, Oordeelnummer 2024-63 & Oordeelnummer 2024-62

106 <https://www.adviesraadinternationalevraagstukken.nl/adviestrajecten/krimpende-maatschappelijke-ruimte>.

107 [https://www.iob-evaluatie.nl/binaries/iob-](https://www.iob-evaluatie.nl/binaries/iob-evaluatie/documenten/rapporten/2024/11/11/mensenrechtenbeleid/IOB_Evaluatie_Nederlandse_mensenrechtenbeleid_202412.pdf)

[evaluatie/documenten/rapporten/2024/11/11/mensenrechtenbeleid/IOB_Evaluatie_Nederlandse_mensenrechtenbeleid_202412.pdf](https://www.iob-evaluatie.nl/binaries/iob-evaluatie/documenten/rapporten/2024/11/11/mensenrechtenbeleid/IOB_Evaluatie_Nederlandse_mensenrechtenbeleid_202412.pdf).

- Create budgets and frameworks that offer CSOs flexibility in determining their programming, including lobby & advocacy and strategic litigation, as an **acknowledgement of the role of civil society watchdogs in the checks and balances of democracy**.
- Avoid **misuse of emergency powers** by enhancing parliamentary and judicial oversight, ensuring proportionality and necessity in emergency or fast-track legislation, upholding established processes and adequate time for consultation, review and adaptation of legislative proposals.
- Invest in **civil society participation** in all phases of policymaking by ensuring transparency of information, adequate time for preparation, structured open civil dialogue with adequate and timely follow-up.
- Scrap the draft laws WTMO and WBVOO that open the door to **political retaliation against CSOs**. Avoid rhetoric and proposals questioning the legitimacy of CSO based on their (legal) actions or financing. Make sure **any measures limiting the right to association (including access to financing) meet the criteria of necessity and proportionality**, and include legal recourse.
- Refrain from unfounded or disproportionate limitations of the right to **peaceful assembly** (e.g. limitations by emergency order, complicated notification processes, excessive surveillance and ID of protesters, censorship of speech and symbols) and prioritise de-escalation approaches. **Apply established legal norms** and abandon differentiation between protected demonstrations and “disruptive actions”.
- **Safeguard judicial independence** with a separate and adequate budget and amendments to the judiciary act allowing the minister to influence appointing of judges and issue or annul decisions.
- Increase safeguards for lawyers against intimidation and increasing the **budget and remuneration for legal aid** to sufficiently meet the need for subsidized legal aid, including for particularly vulnerable populations like children, victims, undocumented people and asylum-seekers. Strengthen access to justice for communities and CSOs bringing public interest litigation against the state or private entities by avoiding new obstacles and **removing prohibitive admissibility criteria (e.g. “representativity” criteria) and extra procedural steps** for this type of claim in the WAMCA.
- **Close loopholes in the Dutch Whistleblower protection act** by removing the requirement that limits protection to cases when a “public interest” is at stake, and give the whistleblower’s authority (*Huis van Klokkenluiders*) sanctioning power.
- **Ensure adequate implementation of the Anti-SLAPP directive** by including definitions and indicators for assessing SLAPP-cases in legislation, extending application of the Directive’s safeguards to domestic SLAPP cases, and change legislation to allow early dismissal and full compensation for full costs.
- **Safeguard access to information** by adequately funding the network of public broadcasters and scrap the VAT increase for print and online media.
- Create **independent entities within ministries for FOI-request** review and apply exceptions narrowly.
- Scrap the “legitimate interest” criteria and /or recognize a general legitimate interest of **journalists and CSOs to access to Beneficial Ownership registers**.

About the author



The **Breed Mensenrechten Overleg** is a platform for cooperation between 20+ Dutch human rights and development organizations. The NGOs created this platform 45 years ago, to support their coordinated engagement with the government at the moment of the Netherlands' first human rights policy note. We remain committed to keeping human rights at the core of Dutch foreign policy, connecting civil society and decision makers to protect human rights worldwide. Our focus on human rights defenders and civic space forms the basis for our engagement with policy impacting civic space in the Netherlands. Recent pressures on human rights and civil society in the Netherlands have confirmed the necessity of integrating our global and national expertise, experience and human rights perspectives.