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**2024 Rule of Law Report  
Country Chapter on the rule of law situation in the Netherlands**

*Accompanying the document*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2024 Rule of Law Report**

**The rule of law situation in the European Union**

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## **ABSTRACT**

The justice system of the Netherlands continues to enjoy a high level of perceived judicial independence. The procedure for appointing members of the Council for the Judiciary and court management boards is currently being reviewed by the Government. The debate on the removal of the executive's power to give instructions to prosecutors in individual cases continues. Strengthened security measures to enhance the resilience of the justice system against organised crime are under consideration and proposals were announced to address the Council of State's concerns regarding compliance with lawyer-client confidentiality. Specific recommendations to address staff shortages and workload concerns among the judiciary are being discussed. Initiatives to enhance access to justice continue, while concerns expressed as regards the available funding for legal aid led to calls for a more stable budget. The level of digitalisation has further improved and a legal framework for the publication of judgments is under preparation. The efficiency of the justice system continues to be high.

The Government continues to reflect on a strengthened anti-corruption policy framework. Preventing the infiltration of organised crime in public institutions through corruption continues to be a strategic priority. The integrity framework for the police is being strengthened. The investigation and prosecution of corruption cases continue to be handled effectively. Work on improving the enforcement of foreign bribery cases is being carried out, including by introducing guidelines on self-monitoring and self-reporting. The Government adopted the reform of the rules on revolving doors and forwarded it to Parliament. Some steps have been taken as regards transparency of lobbying, with further evaluation of the existing measures. The draft Political Parties Act aims to streamline existing legislation, increase transparency and limit foreign and anti-democratic influence. A National Risk Assessment aims to identify the largest corruption threats and overall risks at national, provincial, and local levels.

While the Dutch media regulator maintains its operational independence, supported by adequate resources, some issues have been raised related to the adequacy of the self-governing body for the press sector. Challenges continue regarding transparency of media ownership and high-level media market concentration. There are ongoing efforts to reform the public broadcasting system, while concerns have been raised over accountability and the ability to uphold journalistic standards. The Government continues efforts to improve transparency and access to information in response to ongoing challenges in the implementation of the Open Government Act. Despite several ongoing efforts to improve the safety of journalists, threats and violence remain concerning.

Some further steps have been taken by all state powers to address the shortcomings resulting in the childcare allowances affair, and recommendations by a State Commission on the Rule of Law to strengthen the legal protection of citizens were presented. The Netherlands Institute for Human Rights continues to face governance issues. The landscape for civil society organisations remains open, while some reported shortcomings regarding restrictions to the right to demonstrate remain.

## **RECOMMENDATIONS**

Overall, concerning the recommendations in the 2023 Rule of Law Report, the Netherlands has made:

- Some further progress on efforts to improve the level of digitalisation of the justice system, in particular as regards the publication of judgments.
- Some further progress on completing 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.
- Some progress on establishing stricter transparency rules on lobbying for members of the Government and Parliament.
- Some further progress on a comprehensive follow-up to the childcare allowances affair, involving all relevant state authorities, building also on the work of the State Commission on the Rule of Law.

On this basis, and considering other developments that took place in the period of reference, it is recommended to the Netherlands to:

- Continue efforts to address shortages in human resources and challenging working conditions in the justice system.
- 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.
- Establish stricter transparency rules on lobbying for members of the Government and Parliament.
- Enhance the governance of public service media and its ability to uphold journalistic standards, taking into account European standards on public service media.
- Ensure an adequate follow-up to the recommendations of the State Commission on the Rule of Law, strengthening the legal protection of citizens.

## **I. JUSTICE SYSTEM**

The justice system is based on a court system composed of 11 district courts, 4 general courts of appeal, 2 specialised courts<sup>1</sup>, the Administrative Jurisdiction Division of the Council of State<sup>2</sup> and a Supreme Court. An independent Council for the Judiciary plays a key role in safeguarding the independence of the judiciary and is tasked with fostering the quality of the judicial system, including allocating financial resources to courts<sup>3</sup>. Candidate judges are selected by the National Selection Committee for Judges<sup>4</sup> and subsequently appointed for life by the executive<sup>5</sup> on the proposal of the Minister of Justice and Security<sup>6</sup>. The prosecution service is separate from the Ministry of Justice and Security, but falls under the political responsibility of the Minister for Justice. The Netherlands Bar is established by law. It is independent from the Government and financed exclusively through lawyers' annual contributions<sup>7</sup>. The Netherlands participates in the European Public Prosecutor's Office (EPPO).

### **Independence**

**The level of perceived judicial independence in the Netherlands continues to be high among both the general public and companies.** Overall, 70% of the general population and 74% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024<sup>8</sup>. Among the general public, this figure remains at the same level as in 2023 (70%) but is lower in comparison with 2020 (77%). The perceived judicial independence among companies has increased in comparison with 2023 (72%), although it remains lower in comparison with 2020 (81%)<sup>9</sup>.

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<sup>1</sup> The Central Appeal Tribunal and the Trade and Industry Appeals Tribunal.

<sup>2</sup> The Council of State also has an advisory branch, which renders opinions on draft legislation. State councillors in the Administrative Jurisdiction Division of the Council of State are appointed for life by Royal Decree upon the nomination by the Minister of the Interior and Kingdom Relations, in consultation with the Minister of Justice and Security, and recommendation by the Council itself, after a selection process conducted by the Administrative Jurisdiction Division.

<sup>3</sup> This applies to 11 district courts, the 4 general courts of appeal and the 2 specialised courts. Law on Judicial Organisation. The Council for the Judiciary also gives advisory opinions on draft legislation.

<sup>4</sup> The National Selection Committee for Judges is composed of six judges and six non-judge members, among which at least one public prosecutor and one attorney.

<sup>5</sup> The appointment decision is adopted by Royal Decree, which is signed by the King and countersigned by the Minister of Justice and Security. The Minister solely verifies whether the applicant fulfils the legal requirements to be appointed, and the Minister has in all cases followed the recommendation by the Council for the Judiciary.

<sup>6</sup> This procedure applies to candidate judges for the eleven district courts, the four general courts of appeal and the two specialised courts. Law on the Legal Status of the Judiciary. The Council for the Judiciary has delegated this to the National Selection Committee for Judges. The Minister of Justice and Security has in all cases followed the recommendation by the Council for the Judiciary.

<sup>7</sup> Law on Lawyers.

<sup>8</sup> Figures 51, and 53, 2024 EU Justice Scoreboard and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>9</sup> 68% of the companies in the Netherlands are either fairly or very confident that their investments are protected by the law and courts in the Member State. Only 9% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

**Additional measures to strengthen judicial independence are being discussed.** A legislative proposal prohibiting the simultaneous holding of the office of judge and membership of Parliament is still pending in the House of Representatives<sup>10</sup>. As reported last year, following the advice of the Council of State, the Government abandoned a legislative proposal to lessen the House of Representatives' role in the appointment procedure of Supreme Court judges<sup>11</sup>. A motion was however put forward in Parliament on 10 April 2024 calling on the Government to ensure that the process by which the House of Representatives designates Supreme Court judges is carried out in a more transparent manner<sup>12</sup>. As regards administrative justice, the situation in which some Council of State councillors combine both advisory and judiciary functions is *de facto* phasing out and is intended to be terminated by the end of 2024<sup>13</sup>. Following the conclusions of a Parliamentary Inquiry into Fraud Policy<sup>14</sup>, the coalition agreement between members of the new Government<sup>15</sup> sets out the intention to separate the Administrative Jurisdiction Division from the Council of State and transfer it to the judiciary.

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<sup>10</sup> The legislative proposal has been discussed in the House of Representatives on 10 April 2024. The outcome of those discussions is still pending. Netherlands Government, Bill 36243- Amendment of various laws in the interest of honest, independent and impartial judiciary, 8 November 2022. See also 2023 Rule of Law Report Country Chapter on the rule of law situation in the Netherlands, p. 3.

<sup>11</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 4. Currently, a Committee of Supreme Court judges draws up a list of six candidates and submits it to the House of Representatives, which selects and ranks three candidates and invites the first-ranked person for an interview. The selected candidate is then nominated by the Minister of Justice and Security for appointment by the executive by Royal Decree. The Government proposal would have abolished the nomination right of the House of Representatives. Instead, a committee, consisting of one member appointed by the House and one member appointed by the Supreme Court, would have been given this right.

<sup>12</sup> Motion by members Vroonhoven and Omtzigt to Bill 36243- Amendment of various laws in the interest of honest, independent and impartial judiciary, 10 April 2024 calling on the Government to implement all recommendation made in para. 85 of Venice Commission – *Netherlands – Opinion on the legal safeguards of the independence of the judiciary from the executive power*, CDL-AD(2023)029, adopted on 11 October 2023. According to the Meijers Committee, this could for instance be done by publishing the names of the six candidates sent by the Committee of Supreme Court judges to the House of Representatives, and by making the CVs of the three candidates proposed by the House of Representatives to the Minister accessible to the public; information received in the context of the country visit to the Netherlands from the Meijers Committee. According to the Supreme Court, it would be for the House of Representative to decide on such measures; Information received in the context of the country visit to the Netherlands from the Supreme Court.

<sup>13</sup> The Council of State has two primary tasks, carried out by two separate divisions. The Advisory Division advises the Government and Parliament on legislation and governance, while the Administrative Jurisdiction Division is the country's highest general administrative court. A previous proposal to split the judicial and advisory branches of the Council of State was withdrawn by the Government in 2016. The Venice Commission welcomed steps taken to better separate the advisory function from the judicial function and expressed the view that the legislator could consider removing the possibility of a double mandate or separating the divisions institutionnaly: Venice Commission, CDL-AD(2023)029, para. 31 and para. 32

<sup>14</sup> The Parliamentary Report notes that there are four highest courts in the field of administrative law, each with their own expertise. It submits that the fragmentation among so many different courts entails a risk in terms of legal unity and legal certainty. It criticises the fact that the Advisory Division of the Council of State is involved in advising the legislator on (draft) bills, while these laws are at a later stage assessed by the Administrative Jurisdiction Division of the same Council of State; Report of Parliamentary Commission of Inquiry into Fraud Policy and Services, Blind to Man and Law, 26 February 2024, p. 70. In academia it has been suggested that the appointment procedure of the Administrative Jurisdiction Division of the Council of State could be further aligned to that of the Supreme Court to enhance judicial independence; see P. Bovend'Eert, Strengthening the Rule of Law. Better safeguards for judicial independence, Reflections on a Venice Commission report, *Nederlands Juristenblad*, 2024/4, pp. 240-249.

<sup>15</sup> Coalition agreement between PVV, VVD, NSC and BBB.

**The procedure for appointing members of the Council for the Judiciary and court management boards is currently being reviewed by the Government.** On 12 March 2024 a motion was adopted in Parliament calling for legislation to minimise the Minister of Justice and Security’s role in the appointment of members of the Council for the Judiciary<sup>16</sup>. The Venice Commission also recommended to circumscribe the Minister of Justice and Security’s power in respect of the appointment procedure of candidates for court management boards<sup>17</sup>. It pointed out that, given that the Minister of Justice and Security, the Council for the Judiciary, and court management boards work together in determining financial allocations for the judiciary, circumscribing the Minister’s role would also increase guarantees against external pressure on the decisions on budgetary matters<sup>18</sup>. Stakeholders note that since the Minister of Justice and Security appoints members of the Council for the Judiciary, the appointment of court administrators and the appointment and promotion of judges may be susceptible to political influence<sup>19</sup>. A temporary procedure for the appointment of members of court management boards where the role of judges and court staff was increased, is expected to become permanent following a positive evaluation<sup>20</sup>. As regards disciplinary measures against members of the Council for the Judiciary and court management boards<sup>21</sup>, the Venice Commission recommended that the ground of “unsuitability”, based on which members may be dismissed, should be defined in a more concrete and precise manner<sup>22</sup>. The Council for the Judiciary endorsed this recommendation<sup>23</sup>.

**The debate on the removal of the executive’s power to give instructions to prosecutors in individual cases continues.** Draft legislation initiated by Parliament aiming at abolishing the power of the Minister of Justice and Security to instruct the prosecution service in an individual case remains pending, following a negative opinion from the Council of State<sup>24</sup>. In

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<sup>16</sup> According to Sections 84 and 85 of the Judicial Act, the Minister of Justice and Security makes the final appointment of its members, based on a list of candidates proposed by an independent committee. The justification for the Motion is that from the point of view of the separation of powers it is [deemed] undesirable for members of the Council for the Judiciary to be nominated by the Minister; Motion by member Sneller on legislating to minimise the Minister's role in the appointment procedure for members of the Judicial Council, adopted on 12 March 2024; Venice Commission, CDL-AD(2023)029, para. 45.

<sup>17</sup> Ibidem para. 58.

<sup>18</sup> Venice Commission, CDL-AD(2023)029, para. 45.

<sup>19</sup> The Council for the Judiciary called for further limiting the role of the executive in all judicial appointments. It points out that in appointments of judges, court administrators and members of the Council for the Judiciary, the minister can prevent an appointment. Letter by the Council for the Judiciary to the State Commission on the rule of law, 12 July 2023; In absence of legislative changes, the Dutch Judiciary Association proposed involving court assemblies in the determination of the profile and selection of candidates for the Council for the Judiciary; Information received in the context of the country visit to the Netherlands from the Dutch Judiciary Association; see also 2023, 2022, 2021 Rule of Law Reports, pp. 5, 4, 3 respectively.

<sup>20</sup> Information received in the context of the country visit to the Netherlands from the Government. The Venice Commission also recommended to embed this new procedure in statutory law, which is supported by the Council for the Judiciary; Information received in the context of the country visit to the Netherlands from the Council for the Judiciary.

<sup>21</sup> Venice Commission, CDL-AD(2023)029, paras. 50-66 and 59-62. The Venice Commission also recalled “the importance of security of tenure of all Council members as a crucial precondition for the independence of the Council” recommending to abolish the differences in treatment between judicial and non-judicial members in disciplinary matters, paras. 55-56.

<sup>22</sup> Ibidem, paras. 53 and 60 respectively.

<sup>23</sup> Written contribution from the Council for the Judiciary in the context of the country visit to the Netherlands.

<sup>24</sup> 2023 Rule of Law Report Country Chapter on the rule of law situation in the Netherlands, p. 4.; Bill by member Sneller (Expiration of Special Powers of Instruction of the Public Prosecution Service Act), House

this regard the Venice Commission<sup>25</sup>, while acknowledging the importance of the existing culture of self-restraint in the Netherlands, nonetheless considered that ‘the safeguards embedded in the law, in particular as regards the instructions not to prosecute, may not be strong enough in the event of a majority of a Government in Parliament that frees itself from these rules of self-limitation’<sup>26</sup>. Against this background, it recommended removing the Minister’s power to give instructions not to prosecute in specific cases, or at least limiting this prerogative to clearly defined exceptional circumstances<sup>27</sup>. Stakeholders also called for a reconsideration of the power of the Minister of Justice and Security to instruct the prosecution service<sup>28</sup>.

**Strengthened security measures to enhance the resilience of the justice system against organised crime are under consideration and proposals were announced to address the Council of State’s concerns regarding compliance with lawyer-client confidentiality.** The 2023 Rule of Law Report reported on reforms following failures in ensuring the safety of key witnesses as well as of their relatives and their advisors in criminal proceedings. Attempts by organised crime to infiltrate the judiciary or intimidate its members are seen as a conceivable threat<sup>29</sup>. Lawyers are also more hesitant to defend key witnesses and those suspected of participation in a criminal organisation<sup>30</sup>. The Government has started to fundamentally review the monitoring and security system for persons who are threatened, under the direction of the National Coordinator for Counterterrorism and Security<sup>31</sup>. It also intends to amend the key witness scheme in such a way to cover more suspects that are charged with criminal offences of a less serious nature, as well as to clarify the obligations of the State and

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of Representatives, 2021-2022 session, 36 125, no 2 The Bill is still awaiting plenary debate in Parliament. The prosecution service itself did not see the need for amending legislation, since the Minister has not used this power in practice and -in its opinion- the law on judicial organisation contains adequate accompanying guarantees.

<sup>25</sup> Venice Commission, CDL-AD(2023)029, para. 67 (referring to Austria, Denmark and Germany as other countries in which the prosecution service is subordinate to the Ministry of Justice). For a comparative overview among all EU Member States see Figure 55, 2020 EU Justice Scoreboard. Luxembourg has since removed this power of the Minister of Justice and Security.

<sup>26</sup> Venice Commission, CDL-AD(2023)029, para. 71. Moreover, in the same paragraph the Venice Commission notes that ‘rule of law safeguards should be there precisely to step in when the political, societal and legal culture change and unwritten rules are not valid anymore’.

<sup>27</sup> Ibidem, para. 72. See also Council of Europe Recommendation (2000)19 on the Role of Public Prosecution in the Criminal Justice Systems para. 13(f).

<sup>28</sup> Information received in the context of the country visit to the Netherlands from the Dutch Judiciary Association referring to its response regarding the Special Powers of Instruction of the Public Prosecution Service of 3 June 2021; Information received in the context of the country visit to the Netherlands from the Meijers Committee. The Bar Association suggested to oblige the Minister to refrain from any consultations with the public prosecutor on individual cases; Information received in the context of the country visit to the Netherlands from the Bar Association.

<sup>29</sup> Written contribution from the Government and the Council for the Judiciary in the context of the country visit to the Netherlands; The Dutch Judiciary Association conducted a survey among its members at the end of September 2023, which received 370 responses. Many judges and prosecutors said they feel less safe in recent years due to threats from the criminal environment. Some judges and prosecutors prefer not to do certain cases due to insecurity concerns.

<sup>30</sup> Contribution from the Bar Association for the 2024 Rule of Law Report, p. 3.

<sup>31</sup> Under the authority of the NCTV and the public prosecutor’s office the security of the persons who are threatened is being monitored and based on their threat assessment, the necessary security measures will be taken; Written contribution from the Government in the context of the country visit to the Netherlands.

of key witnesses, respectively<sup>32</sup>. Based on the conclusions of an external study<sup>33</sup>, the Bar Association considers that the key witness scheme should not be expanded until the safety of all persons concerned, including lawyers, is guaranteed<sup>34</sup>. Also, the Government has proposed to introduce visual supervision of lawyer-client conversations in high-security prisons and to limit the number of lawyers that may meet with these clients to two<sup>35</sup>. A proposed Parliamentary amendment that would also allow for auditory monitoring<sup>36</sup> was submitted to the Council of State, which concluded that the amendment was incompatible with the constitution, European Union law and European standards<sup>37</sup>. The Bar Association, which itself has put in place a specific taskforce developing initiatives to protect lawyers against criminal subversion<sup>38</sup>, considers that the proposed limitations would be disproportionate and incompatible with lawyer-client confidentiality<sup>39</sup>. On 24 May 2024, the former Government announced a revised legislative proposal which will exclude auditory monitoring<sup>40</sup>. This is yet to be confirmed by the new Government.

## Quality

**Some further progress has been made to improve digitalisation and a legal framework for the publication of judgments is under preparation.** The 2023 Rule of Law Report recommended to the Netherlands to ‘continue efforts to improve the level of digitalisation of

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<sup>32</sup> Input from the Netherlands for the 2024 Rule of Law Report, p. 3; Procurator-General at the Supreme Court of the Netherlands, Duty of care and witness protection. On the duty of care of the Public Prosecution Service under the system of witness protection system, 11 January 2024.

<sup>33</sup> D.B. Sander, J.H. Crijns, J.A. Klapwijk, M. Lochs, The impact of crown witness procedure on lawyer safety and practice, Leiden University, 16 October 2023.

<sup>34</sup> Contribution from the Bar Association for the 2024 Rule of Law Report, p. 3.

<sup>35</sup> Bill amending the Penitentiary Principles Act in connection with additional measures against organised crime during detention, 3 June 2023.

<sup>36</sup> The amendment established that for detainees at high-security prisons, supervision is exercised during visits and telephone calls from lawyers to detainees, which can be later listened to in the specific situation that the lawyer her/himself becomes a suspect.

<sup>37</sup> Council of State, “Advice on amended bill to amend the Penitentiary Principles Act”, 24 April 2024. According to the Minister for Legal Protection making audio recordings of conversations between lawyers and clients is incompatible with the right to a fair trial and the right to confidential communication. The Meijers Committee argues that auditory monitoring of lawyer-client conversations hampers the exercise of fundamental rights, since the lawyer knows that the conversation is recorded and can be listened to under certain circumstances. ; Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, OJ L 294, 6.11.2013, pp. 1-12, Article 4, 3(3)a.

<sup>38</sup> The taskforce does research into the safety of lawyers, operates an emergency telephone number for reporting threats, has put in place a confidant for lawyers, offers a safety scan for law firms, trainings to increase resilience and various digital tools to protect the lawyer’s identity; Contribution from the Bar Association for the 2024 Rule of Law Report, pp. 2,3.

<sup>39</sup> Contribution from the Bar Association for the 2024 Rule of Law Report, p. 1. On 12 March 2024, the Dutch Supreme Court clarified the legal safeguards as regards prosecutorial requests for large data sets potentially covering protected communications, providing for an increased role for the examining magistrate; Judgment of the Supreme Court of 12 March 2024, in case 23/03504, ECLI:NL:HR:2024:375. See also pillar II.

<sup>40</sup> Minister for Legal Protection, Response to amendments to the Bill to amend the Penitentiary Institutions Act in connection with additional measures against organised crime during detention, 24 May 2024.



the justice system, in particular as regards the publication of judgments<sup>41</sup>. According to the 2024 EU Justice Scoreboard, digitalisation of justice is overall advanced<sup>42</sup>. Legislation is being prepared for the conduct of online hearings<sup>43</sup>. Moreover, several pilot projects have further improved the level of digitalisation of the justice system<sup>44</sup>. The Digital Access Project is being implemented in all jurisdictions, to enable people to initiate and follow proceedings online<sup>45</sup>, while some room for improvement remains for civil and administrative cases<sup>46</sup>. The availability of electronic communication tools in courts continues to be high<sup>47</sup>. At the level of the highest courts, all judgments are being published and with the ongoing deployment of the “More and Responsible Publishing Programme”, more judgments have been published online for other courts too, though the overall publication rate remains low<sup>48</sup>. At the same time, the Government points to the need to ensure the protection of personal data when publishing judgments<sup>49</sup>. In this regard, a legislative proposal for the publication of judgments is under preparation<sup>50</sup>. Overall, there has been some further progress on the recommendation made in the 2023 Report.

**Specific recommendations to address staff shortages and workload concerns among the judiciary are being discussed.** The 2023 Rule of Law Report reported concerns expressed by judges and public prosecutors regarding staff shortages and challenging working conditions due to a high workload<sup>51</sup>. On 23 April 2024, an independent expert presented a report to the Minister for Legal Protection and the Dutch Judiciary Association with recommendations on how to reduce the workload<sup>52</sup>. The aim is to work on concrete

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<sup>41</sup> In the 2023 Rule of Law Report, the Commission concluded that some progress was made on the 2022 recommendation. 2023 Rule of Law Report, Country chapter on the rule of law situation in the Netherlands, p. 2.

<sup>42</sup> Figures 42 to 50, 2024 EU Justice Scoreboard.

<sup>43</sup> Contribution from the Bar association for the 2024 Rule of Law Report, p. 7.

<sup>44</sup> E.g. the online Dispute Resolution Pilot, a platform that provides interactive step-by-step legal advice to help people solve their legal issues out of court; Input from the Netherlands for the 2024 Rule of Law Report, p. 4, 5. Furthermore, the Dutch Recovery and Resilience Plan includes two main actions to digitalise the criminal justice chain; Dutch RRP, 8 July 2022.

<sup>45</sup> Information received in the context of the country visit to the Netherlands from the Council for the Judiciary. It indicates that 100% of criminal cases are processed digitally, while this is the case for 31% of civil and administrative cases. The percentages cited in the 2023 Rule of Law Report were 95% and 15% respectively.

<sup>46</sup> Figure 47, 2024 EU Justice Scoreboard. In comparison to previous year, the possibility of online payment of court fees is now available in civil/commercial and administrative cases and the possibility is given to clients to access the electronic files of their closed administrative cases.

<sup>47</sup> Figures 45 and 46, 2024 EU Justice Scoreboard.

<sup>48</sup> Information received in the context of the country visit to the Netherlands from the Council for the Judiciary. In 2023, the judiciary published 58,230 judgments on Rechtspraak.nl. This is 13% of all judgments with a ruling document, and 8% of all judgments. That is an increase of 17% compared to the number of publications in 2022 (49,833). Taking the 2021 figure of 45 100 as a baseline, the overall publication rate remains low; Figure 49, 2024 EU Justice Scoreboard.

<sup>49</sup> Input from the Netherlands for the 2024 Rule of Law Report, p. 1. The More and Responsible Publishing Programme is working on an AI-based pseudonymisation tool. The aim is to accelerate the work process for publishing judgments online while maintaining a high quality of pseudonymisation.

<sup>50</sup> Information received in the context of the country visit to the Netherlands from the Government.

<sup>51</sup> 2023 Rule of Law Report Country Chapter on the rule of law situation in the Netherlands, p. 7; Recommendation CM/Rec(2010) 12 of the Committee of Ministers of the Council of Europe, paras. 33-38 (resources).

<sup>52</sup> The report contains 32 concrete recommendations that include improving the labour market position, the organisation of work, caring for overburdened colleagues and the deployment of support staff and deputies; J. Winter, Report exploring the workload of the judiciary and public prosecution service, working towards real solutions, April 2024.

adjustments based on this report (e.g., as regards the financial compensation for structurally excessive overtime, reducing the administrative burden on trainers, allowing experienced legal experts to perform the function of deputy judge<sup>53</sup> and a better deployment and more attractive career paths for court lawyers)<sup>54</sup>. The Council for the Judiciary underlines that high-quality justice is required in a well-functioning democracy based on the rule of law. It emphasises that the judiciary is a core function of the state requiring a robust and stable budget. At present the judiciary has to compete with other policy goals of the Ministry of Security and Justice and therefore funding the judiciary becomes a political choice. The judiciary is a core function of the state and needs an appropriate independent funding<sup>55</sup>. According to the 2024 EU Justice Scoreboard, the expenditure on the justice system has been decreasing, in relative terms, in recent years<sup>56</sup>.

**Initiatives to enhance access to justice continue, while concerns expressed as regards the available funding for legal aid led to calls for a more stable budget.** Concerns expressed over the last years as regards the available funding for the legal aid system persist<sup>57</sup>. A one-off compensation for legal aid providers in the funded legal aid system was announced in November 2023 in view of the high inflation<sup>58</sup>. In 2023, the number of active legal aid lawyers slightly decreased<sup>59</sup>. Stakeholders noted a lack of attractiveness due to low fees and the difficulty of training new legal aid professionals<sup>60</sup>. In response, the Government announced a review of the financial compensation of legal aid professionals with a possible recalibration of the funded legal aid system as of 2025<sup>61</sup>. At the same time, the Bar association calls for a budget for the system of funded legal aid, which would ensure its stability over time<sup>62</sup>. Concerning court fees, the 2023 Rule of Law Report reported on the Government's plan to reduce them by 25%<sup>63</sup>. Despite the Council of State approving the proposal in April 2023, the Government did not table it due to subsequent budget cuts.

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<sup>53</sup> On 16 November 2023, a law for a temporary provision to allow judges and counsellors who reach the statutory dismissal age of 70 to remain employable as deputy judges or deputy counsel until the age of 73 has come into effect; Act of 8 November 2023 amending the Judicial Officers (Legal Status) Act, the Second Collective Act COVID-19 and some other acts in connection with making a temporary provision for the appointment of deputy judges in their seventy-first year of life, Official Gazette 2023. 410.

<sup>54</sup> Information received in the context of the country visit to the Netherlands from the Dutch Judiciary Association.

<sup>55</sup> Contribution from ENCJ for the 2024 Rule of Law Report, p. 35.

<sup>56</sup> Figure 34, 2024 EU Justice Scoreboard.

<sup>57</sup> See 2023, 2022, 2021 and 2020 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, pp. 7, 6, 3 and 4 respectively. Figure 24, 2024 EU Justice Scoreboard.

<sup>58</sup> One-off compensation measure amounting to EUR 26 million. The amount to be received by legal aid providers is determined based on the number of granted legal aid assignments, emergency duty reports, and additional hours allocated between 1 October 2022 and 1 October 2023. This calculation considers a rate of 4.62 percent, which represents the difference between the indexing rates as of 1 January 2023 (0.67%) and 1 January 2024 (5.29%); Contribution from the Bar association for the 2024 Rule of Law Report, p. 5.

<sup>59</sup> As of December 2023, 4380 persons were registered as active legal aid professionals. Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report, p. 6.

<sup>60</sup> *Ibidem* and Contribution from the Bar association for the 2024 Rule of Law Report, p. 5.

<sup>61</sup> Letter by the Minister for Judicial Protection, Progress on the legal aid system reform, 20 December 2023.

<sup>62</sup> The budget system in the Netherlands is organised in such a way that amounts cannot be determined in advance. In the case of funded legal aid, this means that a political discussion must always take place about the amount to be allocated to the scheme, taking into account the necessity to increase fees. The Netherlands Bar would prefer a system by which fee adjustments are automatically applied, without the need for a discussion; Contribution from the Bar association for the 2024 Rule of Law Report, p. 5.

<sup>63</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 8.

Instead, a reform impacting court fees in administrative law was proposed which would allow to waive court fees in administrative law cases for litigants who are unable to pay them<sup>64</sup>. In December 2023, the Government also announced that court fees would not be indexed for 2023 and would be indexed with a smaller percentage in 2024<sup>65</sup>. These measures should lead to an overall reduction of around 13.5% of court fees<sup>66</sup>.

## Efficiency

**The efficiency of the justice system continues to be high.** The duration of proceedings for first instance civil, commercial, administrative, and other cases remains short<sup>67</sup>, and the clearance rate is effective. However, in comparison to 2021, a slight increase in the duration of proceedings and decrease in the clearance rates can be noted in 2022<sup>68</sup>. This trend is confirmed by the rate of resolving administrative cases at first instance, which decreased to 99 % in 2022<sup>69</sup>. The processing time for such cases has, however, decreased<sup>70</sup>. As regards cases related to money laundering<sup>71</sup> and bribery<sup>72</sup>, the 2024 EU Justice Scoreboard shows an increase in the average length of court cases in 2022, in comparison to the previous year. Data on the efficiency of litigious civil and commercial cases is still lacking, which does not permit to fully evaluate the efficiency of the justice system. The Council for the Judiciary also reports that shortage of judicial staff, linked to the difficult working conditions within the judiciary as explained above, is expected to affect the proportion of cases handled within the standard processing time in the coming years<sup>73</sup>. The backlog of criminal cases resulting from the COVID-19 pandemic continued to decrease at first and second instance courts<sup>74</sup>.

## II. ANTI-CORRUPTION FRAMEWORK

Anti-corruption policy falls under the shared responsibility of the Ministry of Interior and Kingdom Relations (for promoting integrity) and of the Ministry of Justice and Security (for combatting corruption). Some of the competent authorities to investigate and prosecute

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<sup>64</sup> The reform would also allow for a decision not to index court fees in administrative law. Input from the Netherlands for the 2024 Rule of Law Report, p. 3.

<sup>65</sup> Excluding fees for civil law cases with claims above EUR 100.000 and court fees in the Netherlands Commercial Courts. The indexation rate for 2024 is set at 1,83%. Input from the Netherlands for the 2024 Rule of Law Report, p. 3.

<sup>66</sup> The Council for the Judiciary is disappointed that the proposal to reduce court fees by 25% will not be tabled as this reduction could have significantly increased access to justice; Information received in the context of the country visit to the Netherlands from the Council for the Judiciary. The Netherlands Bar advocates for further measures to be taken to reduce court fees, although this is seen as a first step in the right direction.

<sup>67</sup> Figure 5, 2024 EU Justice Scoreboard. It takes on average 82 days to resolve a case compared to 76 in previous year.

<sup>68</sup> Figure 10 (from 103,5% in 2021 to 98% in 2022), 2023 and 2024 EU Justice Scoreboards.

<sup>69</sup> Figure 12, 2024 EU Justice Scoreboard. The rate was 108% in 2021.

<sup>70</sup> Figure 8, 2024 EU Justice Scoreboard; 257 days in 2022 compared to 265 days in 2021.

<sup>71</sup> Figure 22, 2024 EU Justice Scoreboard; 203 days in 2022 compared to 156 in 2021.

<sup>72</sup> Figure 23, 2024 EU Justice Scoreboard; 645 days in 2022 compared to 443 in 2021.

<sup>73</sup> Written contribution from the Council for the Judiciary in the context of the country visit to the Netherlands.

<sup>74</sup> See 2020, 2021, 2022, 2023 Rule of Law Reports, country chapter on the rule of law situation in the Netherlands, pp. 6, 4, 7 and 8 respectively. At first instance district courts and second instance courts, backlogs resulting from the COVID-19 pandemic have been cleared. Although at first instance subdistrict courts, the stock remains 47% higher than before the pandemic, a further decrease of 18% was achieved in October 2023 compared to the previous year.

corruption are the National Internal Investigations Department<sup>75</sup> (NIID) (focusing on investigation of bribery of public officials), the Fiscal Intelligence and Investigation Service (FIOD) (responsible for the investigation of financial crimes, including foreign and commercial bribery) with its Anti-Corruption Centre (ACC), the National Public Prosecution Service (focusing on the prosecution of bribery of public officials), and the Prosecution Service for Serious Fraud, Environmental Crime and Asset Confiscation (responsible for the prosecution of commercial and foreign bribery). The National Cooperation against Subversive Crime (NSOC) (a cooperation between executive bodies<sup>76</sup> tackling financial flows and business structures of subversive organised crime) remained in place this year. Responsibility for the prevention of corruption is spread out among many different actors<sup>77</sup>. There is no overall anti-corruption agency responsible for the repression and/or prevention of corruption. Cooperation between anti-corruption and intelligence teams within law enforcement bodies continues.

**The perception among experts and business executives is that the level of corruption in the Netherlands public sector remains relatively low.** In the 2023 Corruption Perception Index by Transparency International, the Netherlands scores 79/100 and ranks 4<sup>th</sup> in the European Union and 8<sup>th</sup> globally<sup>78</sup>. This perception has been relatively stable<sup>79</sup> over the past five years. The 2024 Special Eurobarometer on Corruption shows that 54% of respondents consider corruption widespread in their country (EU average 68%) and 5% of respondents feel personally affected by corruption in their daily lives (EU average: 27%)<sup>80</sup>. As regards businesses, 53% of companies consider that corruption is widespread (EU average 65%) and 13% consider that corruption is a problem when doing business (EU average 36%)<sup>81</sup>. Furthermore, 46% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)<sup>82</sup>, while 45% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)<sup>83</sup>.

**The Government has continued consultations with public bodies and civil society on strengthening the anti-corruption policy.** As reported last year, the Netherlands lacks an

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<sup>75</sup> As an investigation service, the *Rijksrecherche* or NIID is under the authority and management of the Board of Prosecutors General of the Netherlands Public Prosecution Service.

<sup>76</sup> Such as border control, police, tax authority, public prosecution, fiscal services, royal military police and defence forces.

<sup>77</sup> The actors include the Ministry of Interior and Kingdom Relations, individual municipalities, the NIID, the Whistleblowers Authority, and others.

<sup>78</sup> Transparency International (2024), Corruption Perceptions Index 2023, p. 2. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>79</sup> In 2018, the score was 82 while in 2023, the score is 79. The score significantly increases/decreases when it changes more than five points; improves/deteriorates when it changes between 4-5 points; is relatively stable when it changes from 1-3 points in the last five years.

<sup>80</sup> Special Eurobarometer 584 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

<sup>81</sup> Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on businesses' attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

<sup>82</sup> Special Eurobarometer 584 on Citizens' attitudes towards corruption in the EU (2024).

<sup>83</sup> Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

overall anti-corruption strategy<sup>84</sup>. The Ministry of Justice and Security continues to consult public bodies and civil society organisations on how to further strengthen the anti-corruption policy<sup>85</sup>. Consultations are currently focussing on existing anti-corruption legislation and policy, and their implementation<sup>86</sup>. Civil society organisations also reiterated their call for strengthening the existing legal framework to address the lack of adequate criminalisation of trading in influence<sup>87</sup>. The Government has commissioned a total of four risk assessments related to corruption<sup>88</sup>. While these risk assessments cover different areas, and have different goals and methodologies, these assessments do not appear tied together in an overall anti-corruption strategic approach<sup>89</sup>. Additionally, legislation for the prosecution and trial of ministers and Members of Parliament is being updated<sup>90</sup>. In its May 2024 coalition agreement, the new Government committed to implement a country-wide approach on combatting corruption by increasing the resilience of civil servants and their willingness to report abuses and by raising awareness on the risks of unauthorised access to IT systems by public officials<sup>91</sup>. Civil society welcomed this explicit commitment to fight corruption but noted that plans remain abstract<sup>92</sup>. The new government also pledged to take account of GRECO recommendations, as part of a broader agenda on democracy, rule of law and good governance<sup>93</sup>.

**Preventing infiltration of organised crime groups in the civil service and police through corruption continues to be a strategic priority.** Corruption is largely considered to be linked to the interests of subversive organised crime<sup>94</sup>. A programme on combating

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<sup>84</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, pp. 8-9. In addition, the Netherlands scores low on the OECD (2024) Public Integrity Indicator for Quality of the Strategic Framework as no strategy is in place.

<sup>85</sup> The future of the Platform on Fighting Corruption, promoting cooperation and information-sharing between anti-corruption bodies which stopped performing during the COVID-19 pandemic, remains part of the consultations. Input from the Netherlands for the 2024 Rule of Law Report, pp. 8-9 and written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 2-3. See also the 2023 Rule of Law Report, Country Chapter in the rule of law situation in the Netherlands, p. 9.

<sup>86</sup> For now there is no clear timeline for the end of these consultations; written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 2-3.

<sup>87</sup> The non-criminalisation of “trading in influence” is a long-standing concern of civil society organisation in the Netherlands, on which no action has been taken so far. Civil society organisations continue to highlight this non-criminalisation as a concern. Input from TI, NHC, FPU and NJC for the 2024 Rule of Law Report, p. 11. See also 2022 Rule of Law report, Country Chapter on the rule of law situation in the Netherlands, p. 9 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 9.

<sup>88</sup> The National Risk Assessment, the Interdepartmental Risk Assessment, the Assessment on Corruption Risks on Main Ports, and a Risk Assessment of the Police.

<sup>89</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 2-3.

<sup>90</sup> Government of the Netherlands (2024), Modernisation of legislation on official offences for MPs and ministers initiated.

<sup>91</sup> Coalition Agreement 2024-2028 of the PVV, VVD, NSC and BBB, p. 22.

<sup>92</sup> NPO Radio I (2024), Importance of anti-corruption in new cabinet: ‘Integrity and transparency essential for trust’.

<sup>93</sup> Coalition Agreement 2024-2028 of the PVV, VVD, NSC and BBB, p. 19. See also pillar I.

<sup>94</sup> Subversive crime links to all forms of severe organised crime that include meddling in the *bona fide* structures of society. It refers to forms of crime that subvert the integrity of Government, public and private sector and have a degrading effect on values and norms.

subversive organised crime was launched in 2020 and continues to be developed<sup>95</sup>. Research on corruption risks and resilience at the Port of Rotterdam and Schiphol Airport, which is part of the action plan on mainports<sup>96</sup>, was published in March 2024<sup>97</sup>. The NIID has investigated 16 cases of information leakage and 18 cases of corruption within the authorities in 2023<sup>98</sup>. Unauthorised access to databases, and the need for appropriate data logging<sup>99</sup> continue to be high-profile issues linked to infiltration. The NIID and the Public Prosecution Service have issued four reports in 2023 relating to the issuance of data-secure identification documents as well as to logging and access management in governmental information systems<sup>100</sup>. As a result, local authorities have been working to address vulnerabilities in their work processes<sup>101</sup>. Research on aspects of Italy's anti-mafia approach<sup>102</sup> pointed to best practices which are also relevant to the Dutch context and on which the Netherlands are already working to fight organised crime<sup>103</sup>. The Ministerial Committee on Tackling Subversive Crime initiated a risk assessment<sup>104</sup> which aims at gaining insight into the current approach on tackling corruption in the different public bodies, examining corruption risks and at raising awareness for the importance of anti-corruption measures<sup>105</sup>. First results on this specific assessment, concerning risks in the ministries, will be available by summer 2024 with results on executive agencies and local governments following later<sup>106</sup>.

### **The investigation and prosecution of corruption-related crimes remains effective and the competent authorities continue their work focusing on corruption linked to**

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<sup>95</sup> Information received from the Ministry of Justice and Security in the context of the country visit to the Netherlands. See also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 10.

<sup>96</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 10.

<sup>97</sup> The research concludes that their main corruption risk is bribery in the law enforcement chain and that in both Rotterdam and Schiphol, employee resilience against bribery in the law enforcement chain is the highest compared to all other risks represented. The Government considers the results in line with previous research and as such sees no need for further action. RAND Europe (2024), Drug-related corruption in Schiphol Airport and the Port of Rotterdam; WODC (2024), Drug-related corruption at Schiphol Airport and the Port of Rotterdam - Summary of the RAND Europe and WODC report on corruption threats on main ports, pp. 4-8; Information received from the Ministry of Justice and Security in the context of the country visit to the Netherlands and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, p. 7.

<sup>98</sup> Public Prosecution Service (2024), annual report 2023, p. 44.

<sup>99</sup> Data logging refers to corrupt public officials that access certain information in official databases without authorisation. Problems on this topic relate to inadequately equipped IT systems which are not able to track the identity of persons accessing the specific data in an unauthorised manner. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 11.

<sup>100</sup> Input from the Netherlands for the 2024 Rule of Law Report, p. 13 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 11.

<sup>101</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, p. 4.

<sup>102</sup> WODC (2023), Italian anti-mafia legislation as inspiration for Dutch approach to organised crime. See 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 11.

<sup>103</sup> Information received from the Ministry of Justice and Security in the context of the country visit to the Netherlands and Input from the Netherlands for the 2024 Rule of Law Report, p. 7.

<sup>104</sup> One of four outlined above.

<sup>105</sup> Information received from the Ministry of Justice and Security in the context of the country visit to the Netherlands and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands from 27 March 2024, p. 2.

<sup>106</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands from 14 March 2024, p. 4 and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands from 27 March 2024, p. 2.

**organised crime.** The investigation and prosecution of corruption-related offences continue to function properly, including in high-level cases, with no immediate obstacles signalled by the investigators and prosecutors<sup>107</sup>. Statistics concerning the number of investigations on corruption-related crimes are not available, but in 2023, 44 individuals were indicted by the prosecution on charges of corruption<sup>108</sup> (compared to 48 individuals in 2022)<sup>109</sup>. Additionally, in 2023, courts imposed final convictions<sup>110</sup> in six cases<sup>111</sup> in first instance and in 15 cases<sup>112</sup> in second instance in which breaches of one or several corruption-related crimes have been proven<sup>113</sup>. This resulted in 67 sanctions in 2023, whereas in 2022, 103 sanctions were imposed<sup>114</sup>. The EPPO has signalled no corruption cases among its open cases in 2023 in the Netherlands<sup>115</sup>. The National Cooperation against Subversive Crime (NSOC) - established in 2022 as a cooperation between executive bodies tackling criminal financial flows and their underlying business structures, including money laundering and corruption<sup>116</sup> - initially continued its work following an evaluation, with a focus on information sharing<sup>117</sup>. Following a motion 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 organise this information-sharing themselves<sup>118</sup>. Transparency International had previously criticised the NSOC's unclear legal mandate<sup>119</sup>.

**Work on improving the enforcement of foreign bribery cases continues, including by introducing guidelines on self-monitoring and self-reporting.** Some concerns remain over the effective enforcement of foreign bribery cases<sup>120</sup>. To improve results, posts were internally reassigned within the FIOD – ACC<sup>121</sup> to strengthen the capacity to investigate

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<sup>107</sup> Information received from a joint meeting with law enforcement and prosecution services in the context of the country visit to the Netherlands. See also the 2020, 2021, 2022 and 2023 Rule of Law Reports, Country Chapters on the rule of law situation in the Netherlands, p. 8, pp. 6-7, pp. 9-10, pp. 10-11.

<sup>108</sup> Arts. 177 (active bribery in the public sector), 178 (obstruction of justice/active bribery of judges), 328ter (bribery in private sector), 363 (passive bribery in the public sector) of the Dutch Criminal Code.

<sup>109</sup> Prosecution data differentiated by Article and year, provided by the Dutch Prosecution Service in March 2024.

<sup>110</sup> The number on final convictions only refers to the number of cases in which convictions were handed down, not to the number of defendants convicted in each case.

<sup>111</sup> Input from the Netherlands for the 2024 Rule of Law Report, pp. 14-15.

<sup>112</sup> Input from the Netherlands for the 2024 Rule of Law Report, pp. 14-15.

<sup>113</sup> Input from the Netherlands for the 2024 Rule of Law Report, pp. 14-15.

<sup>114</sup> Prosecution data differentiated by Article and year, provided by the Dutch Prosecution Service in March 2024.

<sup>115</sup> EPPO (2024), Annual Report 2023, p. 47.

<sup>116</sup> Within the NSOC, the Police, the Public Prosecution Service, the Tax and Customs Administrations, the Fiscal Intelligence and Investigation Service (FIOD), the Royal Netherlands Marechaussee and other units of the Ministry of Defence are collaborating to develop new methods to disrupt criminal structures and their earning models, based on shared information.

<sup>117</sup> Information received from a joint meeting with law enforcement and prosecution services in the context of the country visit to the Netherlands.

<sup>118</sup> Motie lid Michon-Derkzen c.s. Kamerstukken II 2023-2024, 36 560 VI nr. 15.

<sup>119</sup> The NGO reported only little action by the NSOC in the field of anti-corruption. Information received from Transparency International in the context of the country visit to the Netherlands.

<sup>120</sup> As also indicated by the OECD Working Group on Bribery. See also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, pp. 11-12.

<sup>121</sup> Fiscal Intelligence and Investigation Service (FIOD) with its Anti-Corruption Center (ACC).

foreign bribery cases<sup>122</sup>. Overall efforts to increase the capacity of the prosecution service<sup>123</sup> should also have an effect in the area of foreign bribery. Following a study on self-reporting, cooperation with the investigators and self-investigation from 2023<sup>124</sup>, the prosecution service is drafting guidelines for self-monitoring and self-reporting of financial economic crimes (including foreign bribery cases and others) to provide clarity for companies<sup>125</sup>. Further legislation on this topic is not expected<sup>126</sup>. A judgment of the Supreme Court has clarified the legal safeguards as regards prosecutorial requests on large data sets potentially covering protected communications, providing for an increased role for the examining magistrate<sup>127</sup>. This could mitigate the impact of the issue of large datasets on some foreign bribery investigations<sup>128</sup>.

**Police and law enforcement agencies continue to make extensive efforts to promote integrity and combat corruption risks.** Work on police integrity continues and recorded significant achievements last year<sup>129</sup>. The police appointed a Director on Integrity in November 2023, responsible for a strategic policy promoting integrity and an ethical working environment<sup>130</sup> and established a dedicated unit designed to combat corruption internally<sup>131</sup>. Moreover, further analysis on corruption risks within the police is ongoing through research projects aimed at identifying corruption risks and strategies to be able to fight corruption within law enforcement agencies early on<sup>132</sup>. The police is currently revising its 2014 policy on accepting gifts and networking<sup>133</sup>. While taking the implementation of an obligatory gift-registry system recommended by GRECO under consideration<sup>134</sup>, the police doubts such a

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<sup>122</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, p. 8 and Information received from the FIOD in the context of the country visit to the Netherlands.

<sup>123</sup> See Pillar I.

<sup>124</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 12.

<sup>125</sup> Input from the Netherlands for the 2024 Rule of Law Report pp. 15-16 and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, p. 8.

<sup>126</sup> Information received from a joint meeting with law enforcement and prosecution services in the context of the country visit to the Netherlands.

<sup>127</sup> Judgment of the Supreme Court of 12 March 2024, in case 23/03504, ECLI:NL:HR:2024:375; See also Pillar I, footnote 39.

<sup>128</sup> These legal difficulties in using large datasets impact the duration of some foreign bribery cases. 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 12.

<sup>129</sup> GRECO concluded recently that Dutch law enforcement agencies have satisfactorily implemented six out of eight GRECO integrity and anti-corruption recommendations. GRECO, Fifth Evaluation Round – Second Compliance Report, The Netherlands (2023), para. 118.

<sup>130</sup> Information received from the police in the context of the country visit to the Netherlands and Input from the Police for the 2024 Rule of Law Report, p. 1.

<sup>131</sup> Information received from the Police in the context of the country visit to the Netherlands.

<sup>132</sup> Five-pillar approach of tackling corruption and strengthening integrity in the operational and support units of the Police by the following projects: ‘Insight and Overview’ for a strategic analysis of police corruption, ‘Fieldlabs Police Anti-Corruption’ for early identification and combating corruption, ‘Cooperation with Insider Threat Intelligence Operations’ on the misuse of police intelligence systems, ‘Collaboration with Police Academy’ for academic research on motives for police corruption and ‘Strengthening Resilience’ on early recognizing and avoiding corruption situations. Information received from the Police in the context of the country visit to the Netherlands and Input from the Police for the 2024 Rule of Law Report, pp. 2-3.

<sup>133</sup> Information received from the Police in the context of the country visit to the Netherlands and Input from the Police for the 2024 Rule of Law Report, p. 1.

<sup>134</sup> GRECO, Fifth Evaluation Round – Second Compliance Report, The Netherlands (2023), paras. 74-78.



system would be effective as police officers are already required not to accept gifts exceeding a value of €50<sup>135</sup>.

**Integrity and transparency for ministers and state secretaries continues to be promoted although largely based on self-responsibility.** A Code of Conduct for Ministers and State Secretaries including rules on gifts, secondary activities and lobbying was adopted in December 2022<sup>136</sup>. Two high-level integrity advisers<sup>137</sup> were appointed in March 2024<sup>138</sup>. They will function as advisory focal points in cases of integrity concerns and suspicions on the side of ministries and state secretaries. However, seeking their advice is neither compulsory, nor is their advice binding, and the advisers do not have sanctioning powers and cannot forward any report to the Government or Parliament<sup>139</sup>. According to the Code, ministers must themselves report any acceptance of financial interests to the House of Representatives, but an oversight mechanism has not been put in place<sup>140</sup>. Hence, the enforcement of the Code of Conduct is based on self-responsibility and on the principle of parliamentary trust<sup>141</sup>, which stakeholders continue to be skeptical about.<sup>142</sup> Moreover, the Minister of Interior and Kingdom Relations recently addressed the subject of integrity in the Council of Ministers. After the forming of a new government and before it will take office, an extensive session to raise awareness on integrity issues will be carried out by an external supervisor for the new ministers and state secretaries<sup>143</sup>. Finally, the overall integrity policy for civil servants and politicians, adopted in 2023, remains in place<sup>144</sup>.

**Several Members of Parliament were suspended for breaching the integrity rules, while broader issues with the asset and interest disclosure regime are signalled.** In December 2023, the College of Investigation of Integrity<sup>145</sup> advised the House of Representatives for the second time to issue suspensions of several Members of Parliament for a breach of

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<sup>135</sup> Information received from the Police in the context of the country visit to the Netherlands and Input from the Police for the 2024 Rule of Law Report, p. 1.

<sup>136</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 13.

<sup>137</sup> The former ministers Winnie Sorgdrager and Jaap de Hoop Scheffer. NOS News (2024), Former ministers Sorgdrager and De Hoop Scheffer confidants for cabinet members.

<sup>138</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands and Written contribution by the Senate in the context of the country visit to the Netherlands from 22.03.2024, p. 3.

<sup>139</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands.

<sup>140</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands and Written contribution by the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands, p. 6.

<sup>141</sup> Government members can be requested to resign from office if they lose the confidence of a parliamentary majority; Input from the Netherlands for the 2024 Rule of Law Report, p. 10 and Written contribution by the House of Representatives in the context of the country visit to the Netherlands from 19 March 2024, p. 4.

<sup>142</sup> The effectiveness of the Code of Conduct was criticised previously by GRECO and the Open State Foundation, and this criticism was once again confirmed by Transparency International. See Open State Foundation (2023), MPs fierce about minister's integrity policy; GRECO, Fifth Evaluation Round – Second Compliance Report, The Netherlands (2023), para. 117 and Information received from Transparency International in the context of the country visit to the Netherlands.

<sup>143</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands and Input from the Netherlands for the 2024 Rule of Law Report, p. 9.

<sup>144</sup> Ministry of Interior and Kingdom Relations (2023), Integrity policy in public office, pp. 1-2.

<sup>145</sup> House of Representatives integrity oversight body which treats complaints related to the Code of Conduct for Members of Parliament.

transparency rules<sup>146</sup>. In 2023, following the College’s advice, three parliamentarians were suspended for one week following their refusal to declare their assets and interests in a food delivery service<sup>147</sup>. Transparency International is concerned that the 2022 sanctions did not have a dissuasive effect, citing concerns about their length and severity<sup>148</sup>. On the basis of research of journalists<sup>149</sup>, Transparency International filed a complaint to GRECO alleging that over one third of parliamentarians do not or only insufficiently declare their side jobs and interests<sup>150</sup> and that there is an insufficient review of these declarations<sup>151</sup>. In view of Transparency International, this is in contrast to the GRECO recommendation from 2013, which served as a basis for these transparency rules<sup>152</sup>. Stakeholders criticise existing Parliament guidelines as overly vague and too open for interpretation by the relevant House integrity working group<sup>153</sup>.

**There has been some further progress on the legislative reform on rules on revolving doors as it was adopted by the Government, after taking into account advice from the Council of State.** The 2023 Rule of Law Report recommended to the Netherlands to ‘complete the revision of rules on revolving doors involving former ministers and state secretaries, including a two-year cooling-off period and restrictions in paid activities’<sup>154</sup>. The Government transmitted its legislative proposal on this matter to the Council of State in July 2023<sup>155</sup> and received its advice in February 2024<sup>156</sup>. As reported last year, the proposed system would nearly entirely rely on self-responsibility<sup>157</sup> as it does not provide for oversight or sanctioning mechanisms, and it does not require mandatory follow up to the advice received<sup>158</sup>. The Council of State welcomed a reform of the rules of revolving doors. It

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<sup>146</sup> NOS News (2023), Integrity Committee of the House of Representatives wants suspension of three Members of Parliament from ‘Forum for Democracy’.

<sup>147</sup> One of the three members of Parliament had previously been sanctioned for his refusal to declare his assets in 2022. 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 14; NL Times (2022), Suspend far-right FvD leader Baudet as MP for refusal to declare income: Integrity board and Dutch News (2024), All three FvD MPs suspended for breaking transparency rules.

<sup>148</sup> Information received from Transparency International in the context of the country visit to the Netherlands.

<sup>149</sup> NOS News (2024), House of Representatives register still incomplete and unclear.

<sup>150</sup> Transparency International (2024), Letter to GRECO about lack of transparency of interests of Dutch MPs.

<sup>151</sup> The organisation moreover argues that existing transparency rules are deliberately interpreted in such a way that the review of the declarations for possible conflicts of interests is hindered. Transparency International (2024), Transparency complaint to GRECO about transparency in the House of Representatives.

<sup>152</sup> GRECO’s 2013 recommendation proposed to introduce rules on a clear and exhaustive disclosure of all financial interests, ancillary activities and income. GRECO, Fourth Evaluation Round – evaluation report, The Netherlands (2013), p.49; Transparency International (2024), Transparency complaint to GRECO about transparency in the House of Representatives and NOS News (2024), Interest and asset registry of House of Representatives still incomplete.

<sup>153</sup> NOS News (2024), Interest and asset registry of House of Representatives still incomplete and 2024 Note from the Independent Integrity Advisor regarding recent registration advice.

<sup>154</sup> 2022 and 2023 Rule of Law Reports, Country Chapters on the rule of law situation in the Netherlands, p. 2. Some progress was reported last year as the initial legislative proposal was submitted to public consultation.

<sup>155</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands and Input from the Netherlands for the 2024 Rule of Law Report, p. 5.

<sup>156</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands.

<sup>157</sup> The draft proposed that a former member of Government would – for two years after leaving office – be obliged to seek advice from an Advisory Board on a new employment in the private and semi-private sector. Without any sanctioning or oversight mechanism, the proposed system would rely on the (self-) responsibility of the (former) member of Government in question.

<sup>158</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, pp. 14-15.

however emphasised that legislation should be embedded into a broader integrity policy to promote a culture of integrity within the public service, reiterating also its customary warning about addressing ethical issues solely through legislation<sup>159</sup>. To address the lack of binding character of the advice by the Advisory Board, it suggested that the Prime Minister recommends to the (former) minister or state secretary concerned to follow the Advisory Board's advice<sup>160</sup>. At the end of April 2024, after taking into account the Council of State's advice, the Government adopted the bill and passed it on to the House of Representatives for approval<sup>161</sup>. The Open State Foundation welcomed the progress on rules on revolving doors<sup>162</sup>. Since the proposal has been adopted by the Government and sent to Parliament, there has been some further progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

**There has been some progress as regards transparency of lobbying, with further evaluation of the existing measures ongoing.** The 2023 Rule of Law Report recommended the Netherlands to 'establish stricter transparency rules on lobbying for members of the Government and Parliament'<sup>163</sup>. As already reported last year, there is no transparency register for ministers and state secretaries<sup>164</sup>, and since then, no updates were noted as regards the transparency of lobbying in Parliament<sup>165</sup>. Following a 2022 study on how transparency in the government could be promoted<sup>166</sup>, only the existing integrity policy – which includes the publishing of legislative footprints<sup>167</sup> and ministerial agendas<sup>168</sup> – has been updated<sup>169</sup>. The Government believes that the existing measures already meet the objective of a transparency register, namely providing insight into contacts with third parties and influence in political decision making.<sup>170</sup> It remains the individual responsibility of each Minister and State Secretary to disclose their agendas and legislative footprints<sup>171</sup>. The Government has

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<sup>159</sup> Council of State Opinion (2024) on the Law regulating follow-up functions of ministers.

<sup>160</sup> Council of State Opinion (2024) on the Law regulating follow-up functions of ministers.

<sup>161</sup> Council of Ministers (2024), Decision List 26 April 2024, pp. 7-8. The amended draft contains the aforementioned obligation for ministers and state secretaries to obtain advice on a follow-up position from an Advisory Board's, although the advice (and the former minister or state secretary's new position) will be published. The rules continue to rely entirely on societal control and reputational consequences for its enforcement. Explanatory Memorandum on the Law regulating follow-up functions of ministers. (2024), pp. 4-5.

<sup>162</sup> Open State Foundation (2024), Anti-revolving door bill to parliament.

<sup>163</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 2.

<sup>164</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 15.

<sup>165</sup> For the House of Representatives in the Netherlands, there is a voluntary and publicly available lobbying register in place since 2012; see the 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 15. No updates regarding this lobbying register were reported.

<sup>166</sup> This study concluded that instead of implementing a lobbying register, the Government should strengthen the rules on transparency already in place, namely the publishing of ministerial agendas and legislative footprints, see also the 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 15 and Input from the Netherlands for the 2023 Rule of Law Report, p. 13.

<sup>167</sup> The publishing of an overview of the stakeholders consulted in the legislative process. Input from the Netherlands for the 2024 Rule of Law Report, p. 1 and Transparency International (2023) Lifting the Lid on Lobbying p. 44.

<sup>168</sup> The publishing of appointments of ministers – barring certain exemptions – by disclosing subject of the appointment and the contact person. Input from the Netherlands for the 2024 Rule of Law Report, p. 1.

<sup>169</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 15 and Input from the Netherlands for the 2024 Rule of Law Report, p. 1.

<sup>170</sup> Input from the Netherlands for the 2024 Rule of Law Report, p. 6.

<sup>171</sup> Ministry of Interior and Kingdom Relations (2023), Reaction of the Cabinet to the study "Framework on legitimate interest representation".

nevertheless commissioned additional research to further evaluate the effects of the measures in place, and, in case there would be a decision to update the lobbying regulation in the future, the responsible Ministry pre-emptively launched a comparative study on lobbying registers in place in other EU Member States<sup>172</sup>. Transparency International criticised the rules for not being sufficiently transparent and recommended the introduction of a compulsory transparency register, an independent oversight authority and a code of ethics for lobbyists<sup>173</sup>. They also noted an uneven performance of various ministers in publishing their agendas<sup>174</sup> and the practical absence of a legislative footprint<sup>175</sup>. Since the Government is evaluating the current system and looking into best practices in other Member States, there has been some progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

**The draft new Political Parties Act aims to streamline existing legislation, increase transparency and limit foreign and anti-democratic influence.** Following the revision of the Act on Political Party Financing in 2023<sup>176</sup>, the Government has published a separate and more comprehensive draft law on party financing and transparency: the Political Parties Act<sup>177</sup>. It aims at combining and improving the Act on Political Party Financing<sup>178</sup>. The Political Parties Act aims to regulate, amongst other provisions, foreign parties' activities and includes a prohibition on parties that "present a clear and present danger of undermining or abolishing the democratic rule of law"<sup>179</sup>. It also proposes to subsidise parties at the local and provincial levels, aiming to make them independent from private investors and thus less susceptible to unwanted financial influence<sup>180</sup>. The draft was sent to the Council of State for advice, following consensus among all ministries<sup>181</sup>. Transparency International has welcomed the reforms<sup>182</sup>.

**The Whistleblower's Authority observes a substantial rise of reports and investigations following the adoption of relevant legislation.** As reported last year, the new

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<sup>172</sup> Information received from the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands and input from the Netherlands for the 2024 Rule of Law Report, p. 6 and written contribution by the Ministry of Interior and Kingdom Relations in the context of the country visit to the Netherlands from 14 March 2024, p. 5. The Government has initiated consultations with Germany, France, Ireland and the UK on their respective transparency registers.

<sup>173</sup> Information received from Transparency International in the context of the country visit to the Netherlands and Transparency International Netherlands (2023), *Lifting the Lid on Lobbying*, pp. 7-9.

<sup>174</sup> Information received from Transparency International in the context of the country visit to the Netherlands and Transparency International Netherlands (2023), *Transparency of Ministers' agendas has deteriorated*.

<sup>175</sup> Information received from Transparency International in the context of the country visit to the Netherlands and Transparency International (2023) *Lifting the Lid on Lobbying* pp. 50-51.

<sup>176</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 16.

<sup>177</sup> Dutch Government (2024), *Law on Political Parties sent for advice to Council of State*.

<sup>178</sup> *Ibidem*.

<sup>179</sup> The law already defines that parties can be prohibited by a judge when they act "against the public order"; now this would be specified that parties can be prohibited – only by a judge – if they seek to "undermine or abolish the democratic rule of law". Such a prohibition would for example target those parties that seek to undo the independence of the judiciary or interfere with the electoral process. Information received from the Ministry of Justice and Security in the context of the country visit to the Netherlands and Government of the Netherlands (2022), *Bill enables the ban of parties that undermine democracy*.

<sup>180</sup> Dutch Government (2024), *Law on Political Parties sent for advice to Council of State and Information received from Transparency International in the context of the country visit to the Netherlands*.

<sup>181</sup> Dutch Government (2024), *Law on Political Parties sent for advice to Council of State and information received from the Ministry of Justice and Security in the context of the country visit to the Netherlands*.

<sup>182</sup> Information received from Transparency International in the context of the country visit to the Netherlands.

whistleblowing legislation entered into force in 2023 with the aim to transpose the EU Whistleblower Protection Directive<sup>183</sup>. The government foresees further amendments to the legislation to regulate issues outside the scope of the Directive, but this awaits further research<sup>184</sup>. Following the adoption of this legislation, the Whistleblower's Authority recorded a rise of 52% in requests for advice from potential reporters of suspected wrongdoing compared to 2022<sup>185</sup>. However, specific data on the number of reports that relate to corruption in the working environment is not gathered and can therefore not be evaluated<sup>186</sup>. Additionally, 56% more employers have approached the Whistleblower's Authority in 2023 compared to 2022<sup>187</sup> with questions on topics including the implementation of a proper internal reporting channel<sup>188</sup>. The government has initiated a campaign on safe working and reporting climate to promote knowledge about the Whistleblowers Protection Act<sup>189</sup>. Three years after the entry into force of the law, the government will carry out an evaluation of its impact<sup>190</sup>.

**A National Risk Assessment aims to identify the largest corruption threats and overall risks at national, provincial and local levels.** The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 16% of companies in the Netherlands (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in the last three years<sup>191</sup>. Public procurement remains one of the main areas at high risk of corruption in the country<sup>192</sup>. While the country follows a decentralised approach in the fight against corruption, the Ministry of Justice and Security has commissioned a National Risk Assessment on Corruption which commenced in April 2024<sup>193</sup>. The assessment aims to identify the largest corruption threats, the overall risk-level of these threats as well as potential resilience against corruption<sup>194</sup> in the public and private

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<sup>183</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 16.

<sup>184</sup> Such amendments would concern anonymous reports of suspected abuse and new supervisory and sanctioning powers for the Dutch Whistleblower's Authority. Information received from the Dutch Whistleblower's Authority in the context of the country visit to the Netherlands and Input from the Netherlands for the 2024 Rule of Law Report, p. 11.

<sup>185</sup> NOS News (2024), Significantly more reports to the House of Whistleblowers last year.

<sup>186</sup> Information received from the Dutch Whistleblower's Authority in the context of the country visit to the Netherlands and Input from the Netherlands for the 2024 Rule of Law Report, p. 11.

<sup>187</sup> Information received from the Dutch Whistleblower's Authority in the context of the country visit to the Netherlands.

<sup>188</sup> Ibidem.

<sup>189</sup> Input from the Netherlands for the 2024 Rule of Law Report, p. 11.

<sup>190</sup> Ibidem.

<sup>191</sup> Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 11 percentage points below the EU average.

<sup>192</sup> For example, the Dutch police has reported on corruption-related problems with the procurement of cars in the past. Therefore, the police focuses to strengthen resilience not only in operational police units but also in support and procurement units. Transparency International has also signalled procurements below the threshold including in EU legislation often do not get published, leading to a lack of transparency. Information received from the police and Transparency International in the context of the country visit to the Netherlands.

<sup>193</sup> The risk assessment will be carried out by the WODC. This is one of the four different risk assessments that are ongoing. Input from the Netherlands for the 2024 Rule of Law Report, pp. 12-13 and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 1-2.

<sup>194</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 6-7 and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 1-2.

sectors at a local, provincial and national level<sup>195</sup>. Results are expected in late 2025<sup>196</sup>. Since in the last years the healthcare sector has proven to be another high-risk area for corruption, including through a corruption case at the country's largest cardiology department<sup>197</sup>, the FIOD-ACC and prosecution have increased their efforts in this regard<sup>198</sup>. A recent audit by the Court of Audit found that – while overall praising the effective organisation of procurement at a time of crisis - the government did not pay sufficient attention to potential conflicts of interest during vaccine procurement for the COVID-19 pandemic<sup>199</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

Media freedom in the Netherlands is underpinned by constitutional and legislative protections<sup>200</sup>. These protections include constitutional safeguards for press freedom<sup>201</sup>, an independent media regulator (*Commissariaat voor de Media*), alongside mechanisms that guarantee the independence of public service media in terms of governance and financial support. Access to public documents is ensured through the Open Government Act of May 2022. With initiatives such as *PersVeilig*, important initiatives have been established to improve the safety of journalists, demonstrating a commitment to combating physical violence, online harassment, and legal disputes against media professionals.

**While the Dutch media regulator maintains its operational independence, supported by adequate resources, some issues have been raised related to the adequacy of the self-governing body for the press sector.** The media regulator continues to function autonomously<sup>202</sup> and is well-equipped to fulfil its mandate<sup>203</sup>. It considers that its financial and staffing resources are sufficient to address its current needs<sup>204</sup>. The journalistic self-regulatory body (*Raad voor de Journalistiek*) monitors deontological standards in the press sector by handling complaints and assessing whether a journalist has exceeded the boundaries of journalistic ethics. It can issue opinions only and it cannot impose rectifications or

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<sup>195</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 1-2.

<sup>196</sup> Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 6-7 and Written contribution by the Ministry of Justice and Security in the context of the country visit to the Netherlands, pp. 1-2.

<sup>197</sup> A scandal in the country's largest cardiology department, in which two doctors are suspected to have accepted bribes from a German medical supplier in 2022 to install their brand's devices in patients, even when not medically necessary, resulted in numerous unnecessary heart implants. Dutch News (2022), Fall-out from hospital bribery inquiry 'putting heart patients at risk and Isala hospital (2023), Patientstories Cardiology NRC

<sup>198</sup> By creating awareness, especially for the option to report signs of corruption anonymously; information received from a joint meeting with law enforcement and prosecution services in the context of the country visit to the Netherlands and Input from the Netherlands for the 2024 Rule of Law Report, pp. 11-12.

<sup>199</sup> Netherlands Court of Audit (2024), VWS acted quickly and aimed at public objectives when buying COVID vaccines.

<sup>200</sup> The Netherlands rank 4<sup>th</sup> in the 2024 Reporters without Borders World Press Freedom Index compared to 6<sup>th</sup> in the previous year.

<sup>201</sup> Article 7 of the Dutch Constitution.

<sup>202</sup> 2024 Media Pluralism Monitor, country report Netherlands, p. 12.

<sup>203</sup> Article 7 of the Dutch Media Law of 2008.

<sup>204</sup> Information received in the context of the country visit to the Netherlands from the media regulator.

sanctions<sup>205</sup>. Free Press Unlimited reported that several media are no longer recognising the deontological body, arguing that it is unequipped to assess complex cases<sup>206</sup>.

**Challenges continue regarding transparency of media ownership and high-level media market concentration.** Although the Dutch media regulator issues the *Mediamonitor*, which provides public access to media ownership details, it lacks the competence to compel entities to disclose their ownership information<sup>207</sup>. The high level of media concentration reported in last year's Rule of Law report<sup>208</sup>, with the associated very high-risk assessment of media concentration by the Media Pluralism Monitor<sup>209</sup>, persists<sup>210</sup>. In December 2023, DPG Media, a major Belgian media company, announced its intention to acquire RTL Nederland, the largest private broadcasting company in the Netherlands with 24,4% of market share<sup>211</sup>. Journalist associations have voiced concerns over the increasing level of concentration in the media market that would result from this acquisition<sup>212</sup>. The acquisition agreement is subject to approval by the Dutch Authority for Consumers and Markets (*Autoriteit Consument & Markt*)<sup>213</sup>. The Dutch media regulator has already publicly expressed its willingness to support<sup>214</sup> the competition authorities in reviewing the acquisition's potential impact on media pluralism<sup>215</sup>. The recent coalition agreement has pledged to provide the Authority for Consumers and Markets with additional tools to take account of diversity in the Dutch media landscape in competition assessment<sup>216</sup>.

**There are ongoing efforts to reform the public broadcasting system, while concerns have been raised over accountability and the ability to uphold journalistic standards.** The Dutch public broadcasting system, which currently includes 13 broadcasters representing various societal groups, is coordinated by the Foundation for Public Broadcasting (*NPO*) that oversees the distribution of airtime and the funding of recognised public broadcasters. As highlighted in last year's Rule of Law report<sup>217</sup>, in line with the objective to promote media pluralism, the Government established an advisory committee to evaluate the governance of

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<sup>205</sup> The *Raad voor de Journalistiek* publishes opinions on complaints on its website.

<sup>206</sup> Free Press Unlimited (2024), *An underestimated problem: disproportionate legal pressure on Dutch journalism*. A study on the extent and impact of legal pressure on Dutch journalism by Free Press Unlimited, p. 27. The report highlights that the journalists consider that the capacity and procedures of the deontological body are not adequate to handle complex cases. This was confirmed in a written contribution by Free Press Unlimited in the context of the country visit to the Netherlands.

<sup>207</sup> Information received in the context of the country visit to the Netherlands from the media regulator.

<sup>208</sup> 2023 Rule of Law Report, country chapter on the rule of law situation in the Netherlands, p. 21.

<sup>209</sup> 2024 Media Pluralism Monitor, country report Netherlands, p. 14.

<sup>210</sup> Dutch media regulator, *Mediamonitor 2023*, p. 12.

<sup>211</sup> Dutch media regulator, *Mediamonitor 2023*, p. 10.

<sup>212</sup> Written contribution by Free Press Unlimited in the context of the country visit to the Netherlands.

<sup>213</sup> Authority for Consumers and Markets (2024), *DPG Media wants to acquire RTL Nederland Holding and RTL Nederland Media Services (merger notification)*. As noted in the 2023 Rule of Law Report, country chapter on the rule of law situation in the Netherlands, p. 21, the Authority for Consumers and Markets already prohibited a proposed merger between RTL Nederland and Talpa due to competition concerns in March 2023.

<sup>214</sup> According to Article 7.21 of the Dutch Media Law of 2008, the media regulator is competent to assess the impact of media market concentrations on media pluralism and independence.

<sup>215</sup> Information received in the context of the country visit to the Netherlands from the media regulator. The Dutch Journalist Association also voiced some concerns regarding this acquisition in the context of the country visit to the Netherlands.

<sup>216</sup> Coalition agreement between PVV, VVD, NSC and BBB.

<sup>217</sup> 2023 Rule of Law Report, country chapter on the rule of law situation in the Netherlands, p. 21.

the public broadcasting system and offer recommendations on improving the admission and accountability criteria for public broadcasters<sup>218</sup>. Released in September 2023, the committee's final report identified shortcomings of the current system in promoting media plurality and suggested several reforms<sup>219</sup>. Recent developments regarding *Ongehoord Nederland (ON)*, a public broadcaster claiming to represent the concerns of Dutch citizens who feel underrepresented in mainstream media, highlight challenges faced by the public broadcasting system in upholding journalistic standards and providing a plurality of information and opinions to their audiences in an impartial manner<sup>220</sup>. In 2023, ON received a third sanction from the NPO, following the Ombudsman confirmation<sup>221</sup> that ON systematically breached journalistic standards, including for allegations of racism and discrimination. Although the NPO's Board requested the Ministry of Culture to revoke ON's temporary licence, the State Secretary for Culture considered that the observed lack of cooperation by ON did not reach a sufficient threshold to warrant such a withdrawal<sup>222</sup>. In its response, the State Secretary has pleaded for explicitly requiring adherence to journalistic standards as a criterion for the recognition and continued participation of broadcasters in the public system<sup>223</sup>. Furthermore, the State Secretary has pledged to examine the question relating to the adherence to journalistic standards<sup>224</sup> as a criterion for the recognition and continued participation of broadcasters in the public system and has announced that an external study would be commissioned for this purpose<sup>225</sup>. The NPO has also expressed concerns over securing sufficient funding to fulfil its public service mandate, especially considering the need to meet the higher standards on public service media introduced by the European Media Freedom Act<sup>226</sup>.

**The Government continues efforts to improve transparency and access to information in response to ongoing challenges in the implementation of the Open Government Act.** Since the implementation of the Open Government Act in May 2022, the Government has continued efforts towards enhancing transparency and public access to information<sup>227</sup>. Key initiatives include the proactive disclosure of policy notes in addition to parliamentary documents since September 2022 and the introduction of a central platform (*Woo-index*)<sup>228</sup>

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<sup>218</sup> Information received in the context of the country visit to the Netherlands from the Dutch Ministry of Education, Culture and Science.

<sup>219</sup> Advisory College Van Geel (2023), *Unity in pluralism: Plea for a resilient public broadcaster*; Information confirmed in the context of the country visit to the Netherlands from the NPO. (e.g., establishing a maximum number of recognised public broadcasters)

<sup>220</sup> Article 5(1) of the European Media Freedom Act.

<sup>221</sup> NPO Ombudsman (2022), *Decision investigation Ongehoord Nederland*.

<sup>222</sup> State Secretary for Education, Culture and Science, *Decision of 19 December 2023, Final decision regarding the request of NPO to withdraw provisional recognition of Ongehoord Nederland*.

<sup>223</sup> State Secretary for Education, Culture and Science (2023), *Letter to Parliament of 19 December 2023 accompanying the Decision of 19 December 2023*. Information confirmed in the context of the country visit to the Netherlands from NPO.

<sup>224</sup> The State Secretary considers that, under Articles 2.1 and 2.88 of the Dutch Media Law of 2008, the Dutch media regulator is responsible for the enforcement of these standards.

<sup>225</sup> State Secretary for Education, Culture and Science (2024), *Letter to Parliament of 5 April 2024 on the future of media policy*; State Secretary for Education, Culture and Science (2023), *Letter to Parliament of 19 December 2023 accompanying the Decision of 19 December 2023*.

<sup>226</sup> Information received in the context of the country visit to the Netherlands from the NPO.

<sup>227</sup> Written contribution from the Ministry of Interior in the context of the country visit to the Netherlands.

<sup>228</sup> Register of Government Organisations, *Woo-index*.



that consolidates all mandatory disclosed documents, allowing for easier public access<sup>229</sup>. However, the Government recognises that challenges in the implementation of the Open Government Act persist, particularly concerning the timely processing of information requests<sup>230</sup>. It therefore launched a review of the implementation of the Act, which revealed both obstacles and best practices in the handling of document requests<sup>231</sup>. Following the results of this review published in December 2023<sup>232</sup>, on 21 June 2024 the Government outlined measures to ensure a better implementation of the Act, including the management of public information and the acceleration of request processing<sup>233</sup>. For instance, to better monitor the handling of document requests, the Government is developing a central dashboard that would cover all central Government entities<sup>234</sup>.

**There are several ongoing efforts to improve the safety of journalists, including legislation criminalising doxing, however threats and violence against journalists remain concerning.** The initiative *PersVeilig*<sup>235</sup> continues to play a crucial role in enhancing the safety of journalists, addressing physical assaults, online harassment, and legal disputes<sup>236</sup>. Stakeholders generally consider that *PersVeilig* has been proactive in addressing violence against journalists, including through its focus on online harassment and the legal intimidation of journalists<sup>237</sup>. The initiative is currently being evaluated to inform the development of a sustainable financial framework from 2025 onwards<sup>238</sup>, reflecting a commitment by the Government to a long-term support mechanism for journalists. Despite these efforts, challenges remain<sup>239</sup>, as reflected by the four alerts lodged with the Council of Europe’s Platform to promote the protection of journalism and safety of journalists since the 2023 Rule of Law report<sup>240</sup>. One of the new alerts concerns an attempted murder of a journalist<sup>241</sup>. A study commissioned by the Ministry of Justice and Security in 2023 offers detailed insights into the prevailing conditions of violence and aggression against

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<sup>229</sup> State Secretary for Education, Culture and Science (2023), Letter to Parliament of 19 December 2023 accompanying the Decision of 19 December 2023.

<sup>230</sup> Information received in the context of the country visit to the Netherlands from the Ministry of Interior.

<sup>231</sup> Minister for Interior Affairs (2023), Letter to the Parliament of 8 September 2023 regarding the 2023 European Commission Rule of Law Report.

<sup>232</sup> Minister for Interior Affairs (2023), Letter to the Parliament of 7 December 2023 regarding the Open Government Act.

<sup>233</sup> Ministry for Interior Affairs, Letter to the Parliament of 21 June 2024 with the cabinet response to the introduction test of the Open Government Act.

<sup>234</sup> Ibidem.

<sup>235</sup> Since its inception in 2019, *PersVeilig* has developed a comprehensive protocol for protecting journalists, with the collaborative effort of law enforcement, media organisations, and journalists.

<sup>236</sup> Written contribution from the Ministry of Justice and Security in the context of the country visit to the Netherlands.

<sup>237</sup> Information received in the context of the country visit to the Netherlands from Free Press Unlimited, the Dutch Journalist Association and the Dutch Media Regulator.

<sup>238</sup> Information received in the context of the country visit to the Netherlands from the Ministry of Justice and Security.

<sup>239</sup> Minister for Interior Affairs (2023), Letter to the Parliament of 8 September 2023 regarding the 2023 European Commission Rule of Law Report.

<sup>240</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists (2023).

<sup>241</sup> Media Freedom Rapid Response (2023), “Armed man walked into Hilversum’s Media Park with the intention to kill presenter Tim Hofman” and Council of Europe, Platform to promote the protection of journalism and safety of journalists (2023), “Armed Man Arrested for Threatening to Kill Presenter Tim Hofman”.

journalists<sup>242</sup>. Other research shows that a significant number of journalists (82%) encounter various forms of intimidation, aggression, or threats because of their work<sup>243</sup>. In addition, female journalists seem particularly vulnerable to specific forms of aggression, such as online harassment<sup>244</sup>. In this regard, the entry into force in January 2024 of legislation criminalising doxing<sup>245</sup> was highlighted by stakeholders as a key step in protecting journalists from online threats, especially considering the applicable aggravated circumstances when targeting journalists<sup>246</sup>. Although certain stakeholders do not consider strategic lawsuits against public participation (SLAPP) as a systemic issue in the Netherlands<sup>247</sup>, they raised some concerns over a civil defamation case by a business owner against *Het Financiële Dagblad* and its editor-in-chief concerning articles regarding investments in Iran, which the Dutch Journalists' Union urged to be recognised as a SLAPP and dismissed by the courts<sup>248</sup>.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

The Netherlands has a bicameral parliamentary democracy which provides for an *ex-ante* constitutional review of draft legislation<sup>249</sup>. The Parliament is composed of the House of Representatives and the Senate. Legislative proposals can originate from the Government and from members of the House of Representatives. The Council of State gives advisory opinions on draft legislation. Independent authorities and civil society play an important role in the checks and balances system. The Netherlands Institute for Human Rights, which functions as the national equality body, contributes to upholding fundamental rights.

**Stakeholders are generally satisfied with the consultation process on draft legislations and policies.** As a general practice, the Government involves stakeholders by means of internet consultations during the drafting process of legislation or policy documents<sup>250</sup>. Civil society organisations report that at times the consultation period is shorter than normal for

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<sup>242</sup> Erasmus University Rotterdam (2023), Images of violence, a mixed methods study of violence and aggression against journalists.

<sup>243</sup> T. van Hal and L. Klein Kranenburg (2021), Aggression and threats towards journalists.

<sup>244</sup> Minister for Interior Affairs (2023), Letter to the Parliament of 8 September 2023 regarding the 2023 European Commission Rule of Law Report. This was also confirmed in the context of the country visit to the Netherlands by the Dutch Journalist Association.

<sup>245</sup> Article 285d of the Dutch Criminal Code and Dutch Prosecutor (2023), “Guidelines for criminal procedure doxing”.

<sup>246</sup> Information received in the context of the country visit to the Netherlands from Free Press Unlimited, the Dutch Journalist Association and NPO. There are other stakeholders that consider that disproportional legal pressure on journalists is an underestimated issue in the Netherlands, which could potentially lead to self-censorship - Free Press Unlimited (2024), An underestimated problem: disproportionate legal pressure on Dutch journalism. A study on the extent and impact of legal pressure on Dutch journalism by Free Press Unlimited.

<sup>247</sup> Information received in the context of the country visit to the Netherlands by the Dutch Journalist Association.

<sup>248</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists (2023), “Het Financiële Dagblad Sued for Defamation Over Reports”.

<sup>249</sup> Ordinary courts can carry out a decentralised form of ‘constitutional’ review in the absence of a centralised constitutional court. This does not include the constitutionality of Acts of Parliament and treaties, pursuant to Article 120 of the Constitution. For Acts of Parliament, review is possible against directly effective treaties; Figure 64, 2023 EU Justice Scoreboard.

<sup>250</sup> CSO stakeholders and VNO-NCW report to be generally consulted on draft legislation. Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report, p. 22 and Information received from VNO-NCW in the context of the country visit to the Netherlands.

them to contribute effectively<sup>251</sup>. In 2023, the website enabling the consultation of the public was overhauled to make it more user-friendly and comprehensive. Panel discussions are also organised at an early stage with SMEs, entrepreneurs, and their representatives, on legislative proposals that might affect them<sup>252</sup>.

**Some further progress has been made by all state powers to address shortcomings resulting in the childcare allowances affair and recommendations by a State Commission on the Rule of Law to strengthen the legal protection of citizens were presented.** The 2023 Rule of Law Report recommended to the Netherlands to ‘further continue the comprehensive follow-up to the childcare allowances affair, involving all relevant state authorities, building also on the work of the State Commission on the Rule of Law’<sup>253</sup>. In April 2022, the Government announced several measures regarding the executive, legislative, and judicial branch in response to the recommendations made by the Venice Commission to enhance the legal protection of citizens in relation to the State, following the childcare allowances affair<sup>254</sup>. In this regard, the Government is still preparing amendments to the General Administrative Law to strengthen the rights of individuals<sup>255</sup>. It is also making efforts to improve the quality of legislation and is preparing legislation to enable judicial constitutional review of legislation<sup>256</sup>. From the side of the judiciary, a trend is observed of more attention being paid to the legal protection of citizens by courts in the handling of administrative cases<sup>257</sup>. Following the childcare allowance affair, the Council for the Judiciary also reflects on possible problematic legislation in its yearly report. Parliament

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<sup>251</sup> Consultations normally last between six to eight weeks, but the time allocated is sometimes reduced, with one specific initiative in the area of counterterrorism only being open for consultation for five days; Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report, p. 22.

<sup>252</sup> Information received in the context of the country visit to the Netherlands from VNO-NCW. In the Netherlands, only 9% of the surveyed companies perceive the frequent changes in legislation or concerns about quality of law-making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

<sup>253</sup> In the 2023 Rule of Law Report, the Commission concluded that some progress was made on the 2022 recommendation. 2023 Rule of Law Report, Country chapter on the situation in the Netherlands, pp. 2, 20-22. See also 2021 and 2022 Rule of Law Reports, p.13 and 16 respectively.

<sup>254</sup> Venice Commission, Netherlands-Opinion on the Legal Protection of Citizens, CDL-AD (2021)03 adopted on 15-16 October 2021, paras. 134-137. Cabinet response to the report of the Venice Commission ‘The Netherlands – Opinion on the Legal Protection of Citizens’, 12 April 2022.

<sup>255</sup> A 6-month formal and (internet)consultation on the Bill started February 1st 2024; Information received in the context of the country visit to the Netherlands from the Government.

<sup>256</sup> Input from the Netherlands for the 2024 Rule of Law Report, p. 22. The coalition agreement between PVV, VVD, NSC and BBB intends to reform the Constitution to remove the prohibition contained in Article 120 of the Constitution and allow for judicial constitutional review, and to create a Constitutional Court. It also foresees to strengthen constitutional review by Parliament, including its role in ratifying international treaties.

<sup>257</sup> The Council for the Judiciary points out that as a result of this development, the (first instance) administrative judges have turned from 'reviewing judges'; into more 'legal protection judges' and there is more room for the 'human dimension', mentioning for example, the case law on the excusable exceeding of time-limits; Information received and in the context of the country visit to the Netherlands from the Council for the Judiciary. NJCM confirms this trend in pointing to the fact that this is snapshot of jurisprudence that needs further consolidation; Information received in the context of the country visit to the Netherlands from NJCM; Council of State, Lessons from childcare allowance cases, Reflection report of the Administrative Jurisdiction Division of the Council of State, November 2021. One of the conclusions was that in order to avoid injustice in the future, legal protection of citizens had to be given more importance vis-à-vis unity of the law and legal certainty.

launched another inquiry into respect by the tax authorities for the principle of equal treatment and non-discrimination in their approach to combat fraud<sup>258</sup>, notably through algorithmic decision-making<sup>259</sup>. In its conclusions presented on 26 February 2024, the Parliamentary Commission of Inquiry into Fraud Policy and Services pointed to the risk that an event like the child allowances affair could happen again as the underlying patterns are still present<sup>260</sup> and drew up several recommendations, including introducing constitutional review, increasing the budget of the Data Protection Authority, making the Government legally accountable for discriminatory acts, and separating the Administrative Jurisdiction Division from the Council of State and transferring it to the judiciary<sup>261</sup>. It acknowledged the need for Parliament itself to improve its capacity, legislative role, and information position vis-à-vis the Government<sup>262</sup>. Several stakeholders concur with most of the recommendations<sup>263</sup>. As mentioned in the 2023 Rule of Law Report, a State Commission on the functioning of the rule of law<sup>264</sup> with recommendations on structural changes that all state powers need to introduce to enhance the rule of law from a citizens' perspective was established. The State Commission presented its final Report on 10 June 2024, with ten proposals aimed at strengthening the legal protection of citizens<sup>265</sup>. While all three state powers have continued to engage in addressing the shortcomings resulting in the childcare allowances affair as notably identified by the Venice Commission<sup>266</sup>, many initiatives remain

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<sup>258</sup> Report of Parliamentary Commission of Inquiry into Fraud Policy and Services, *Blind to Man and Law*, 26 February 2024.

<sup>259</sup> A reflection document on algorithmic-decision making is under public consultation; Information received in the context of the country visit to the Netherlands from the Government. On 12 March 2024 the *Landsadvocaat* (state's attorney) published an opinion stating that the use of profiling criteria and algorithms by the tax authorities is not in accordance with the rights of citizens not to be subjected to automated data processing enshrined in article 22 GDPR; Pels Rijcken, Advice on automated selection technique to the Finance Ministry, 12 March 2024; The coalition agreement between PVV, VVD, NSC and BBB intends to regulate the use of algorithmic profiling; Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM to the 2024 Rule of Law Report, p. 25.

<sup>260</sup> Report of Parliamentary Commission of Inquiry into Fraud Policy and Services, *Blind to Man and Law*, 26 February 2024, p. 48. The coalition agreement emphasises the need to enhance citizens' trust in institutions, their access to public authorities and their effective legal protection.

<sup>261</sup> As envisaged by the new Government, see pillar I p. 4...

<sup>262</sup> As also envisaged in the coalition agreement.

<sup>263</sup> Information received in the context of the country visit to the Netherlands from the Netherlands Institute for Human Rights, Ombudsman, Bar Association and NJCM; *Netherlands Institute for Human Rights, Blind to man and law' report highlights importance of fundamental rights*, 27 February 2024; The Netherlands Institute for Human Rights also raised follow-up questions to Parliament in a letter dated 25 March 2024.

<sup>264</sup> Decree of 10 February 2023, No 2023000364 establishing a State Commission on the rule of law.

<sup>265</sup> State Commission on the Rule of Law, *The broken promise of the rule of law, ten proposals for improvement with an eye on the citizen*, 10 June 2024. The Commission put forward the following recommendations: Show leadership on the rule of law and actively promote it. Strengthen the rule of law culture also with an office for the rule of law and an create an independent budget section for the rule of law; reinforce the rule of law compass within all parts of Government; give executive agencies the opportunity to show a red card; improve contact with citizens through understandable communication and adequate information; abolish the prohibition to review legislation against the Constitution; give long-term political priority to simplifying social welfare schemes; establish a legal basis for data sharing among government organisations to enable proactive government action in the citizen's interest; invest significantly in strengthening legal protection; organise administrative decision-making and the appeals procedure in such a way that citizens feel that they are heard and seen; ensure a review against legal principles by administrative courts. An official reaction of the new Government is awaited.

<sup>266</sup> See footnote 255.

in the preparatory and adoption phase and further lessons continue to be drawn <sup>267</sup>. Also, despite efforts by the Government<sup>268</sup>, the process of compensating victims of the childcare allowances' affair is progressing slowly<sup>269</sup>. Therefore, there has been some further progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

**The Netherlands Institute for Human Rights continues to face governance issues.** At present, due to governance issues reported in the 2023 Rule of Law Report and a related investigation<sup>270</sup>, the Netherlands Institute for Human Rights (NIHR), which is accredited with an A-status<sup>271</sup>, is functioning with an interim-chairperson and only four out of the nine commissioners foreseen. The Ombudsman, as a member of the Advisory Board of the NIHR, expressed concerns about the impact on NIHR's capacity to effectively carry out its tasks<sup>272</sup>. Despite these issues, the NIHR was tasked with the additional function of National Prevention Mechanism<sup>273</sup>, effective from 1 April 2024. In its function of Equality Body, it has continued to investigate on possible discrimination in relation to the childcare allowances affair<sup>274</sup>. The NIHR notably ruled in several cases that the actions of the Dutch Tax Authority resulted in indirect discrimination on the basis of race<sup>275</sup>. In addition, it undertook several awareness raising activities and trainings for civil servants to prevent racial discrimination by government agencies. Additional funding has been made available to cover for the extension of its mandate to National Prevention Mechanism.

**On 1 January 2024, the Netherlands had five leading judgments of the European Court of Human Rights pending implementation, an increase of one compared to the previous**

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<sup>267</sup> The Dutch Judiciary Association concludes that it is too early to really determine to what extent the legislature and executive are responding to the comments made by the Venice Commission; Information received in the context of the country visit to the Netherlands from the Dutch Judiciary Association.

<sup>268</sup> The Government acknowledges that the recovery operation takes too long for a number of parents. It has taken various measures to accelerate and improve the recovery operation aimed at speeding up the completion of the integral assessments and objections and the earlier and better provision of files; Input from the Netherlands for the 2024 Rule of Law Report, p. 21.

<sup>269</sup> According to the Bar Association the Government will still need a lot of time to compensate all victims for the damage suffered and the promised new way of working by the Government has yet to prove itself in practice; Information received in the context of the country visit to the Netherlands from the Bar Association. According to the National Ombudsman, this is due to its original design not sufficiently responding to the needs of victims, too heavily relying on automated controls by ICT systems and not giving the executive agencies more powers to shape the recovery process; National Ombudsman, Offering recovery: A profession in its own right, A comparative study of ten recovery pathways, 23 October 2023.

<sup>270</sup> Ministry of Justice and Security, Letter to Parliament of 9 July 2024 with a summary of Committee of enquiry reporting a suspicion of possible wrongdoing at the Human Rights Institute; An official response by the Government to the findings of the Committee of enquiry is expected in the autumn of 2024; 2023 Rule of Law Report, Country chapter on the situation in the Netherlands, pp. 22, 23.

<sup>271</sup> Accreditation is provided by the Global Alliance of National Human Rights Institutions (GANHRI); The NIHR was re-accredited in December 2020, see GANHRI Sub-Committee on Accreditation Report – December 2020. Accreditation is based on the Principles relating to the Status of National Institutions (The Paris Principles), adopted by the United Nations General Assembly resolution 48/134 of 20 December 1993.

<sup>272</sup> Information received in the context of the country visit to the Netherlands from the Ombudsman. The Data Protection Authority is also sitting in the Board of the NIHR.

<sup>273</sup> National Preventive Mechanism under the Optional Protocol to the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>274</sup> See 2023 Rule of Law Report, Country Chapter on the rule of law situation in the Netherlands, p. 22.

<sup>275</sup> Contribution from the NHRI for the 2024 Rule of Law Report, p.1.

year<sup>276</sup>. At that time, the Netherlands' rate of leading judgments from the past 10 years that remained pending was at 33% (compared to 29% in 2023), the average time that the judgments had been pending implementation is 3 years and 9 months (compared to 3 years and 7 months in 2023)<sup>277</sup>. The oldest leading judgment, pending implementation for 7 years, concerns the irreducibility of a life sentence imposed on a prisoner suffering from mental illness<sup>278</sup>. As regards the respect of payment deadlines, on 31 December 2023 there were no cases in total awaiting confirmation of payments (compared to 1 in 2022)<sup>279</sup>. On 1 July 2024, the number of leading judgments pending implementation had increased to eight<sup>280</sup>.

**The landscape for civil society organisations remains open, while some reported shortcomings regarding restrictions to the right to demonstrate remain.** The Netherlands continues to have an open civil society landscape<sup>281</sup>. The NIHR noted that the concerns it raised in previous years regarding the freedom of assembly and the freedom to protest had not been addressed and recommended that national authorities facilitate protests as much as possible and avoid using procedural requirements to impose content-based restrictions<sup>282</sup>. CSOs reported further instances of alleged disproportionate preventive and repressive actions undertaken by the police<sup>283</sup> and noted that different groups of protesters are not always treated equally<sup>284</sup>. On 19 April 2024 the Government sent a letter to Parliament outlining its policy on the right to demonstrate<sup>285</sup>. In addition, CSOs expressed concerns at initiatives

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<sup>276</sup> The adoption of necessary execution measures for a judgment by the European Court of Human Rights is Supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

<sup>277</sup> All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 6.

<sup>278</sup> Judgment of the European Court of Human Rights of 26 April 2016, *Murray v. the Netherlands*, 10511/10, pending implementation since 2016.

<sup>279</sup> Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17<sup>th</sup> Annual Report of the Committee of Ministers – 2023, p. 138.

<sup>280</sup> Data according to the online database of the Council of Europe (HUDOC).

<sup>281</sup> See the rating given by CIVICUS, ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed, and closed.

<sup>282</sup> The NIHR specifies that under the Dutch Public Assemblies Act planned assemblies needed to be pre-notified to the public authorities. Despite this being a procedural requirement allowing authorities to assess security risk and make timely arrangements to facilitate the protest, the NIHR submits that increasingly, there is a risk that the right to freedom of assembly gets subjected to content-based restrictions. The NIHR furthermore states that claims that restrictions are "necessary in a democratic society" should be subjected to stricter scrutiny; Contribution from ENNHRI for the 2024 Rule of Law Report, country chapter on the Netherlands, pp. 4-5.

<sup>283</sup> Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report, pp. 23, 24. An example mentioned includes the arrest of a large number of climate activists, including parents and their children on the A12 Motorway on 9 and 10 September 2023.

<sup>284</sup> Notably referring to the treatment of climate activists; Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report, pp. 23, 24.

<sup>285</sup> Letter on the right to demonstrate, Ministers of the Interior and Security and Justice, 19 April 2024. In this letter, the Government announced its intention to have independent research carried out on the right to protest. This research will look into the category of 'disruptive' protests and the category of protests in which other fundamental rights or national security may be at stake. Making such a distinction was criticised by the

putting perceived pressure on their independent role, such as the draft law on Transparency of CSOs<sup>286</sup>. They also expressed fear that their access to the court system will be made more difficult in the future due to the imposition of stricter admissibility requirements<sup>287</sup>.

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Meijers Committee as potentially in violation of the freedom of assembly; Information received from the Meijers Committee following the country visit to the Netherlands. On 21 November 2023, the European Court of Human Rights held that the Netherlands had violated the freedom of assembly in the context of a protest against the eviction of a squat in Amsterdam in 2011; Judgment of the European Court of Human Rights of 21 November 2023, *Laurijsen and Others v. the Netherlands* (application nos. 56896/17, 56910/17, 56914/17, 56917/17 and 57307/17). The Government is currently preparing an action plan to be submitted to the Council of Europe; Information received in the context of the country visit to the Netherlands from the Government.

<sup>286</sup> Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report; Franet National contribution to the Fundamental Rights Report 2024, The Netherlands, p. 30 reporting on CSO concerns related to the legal certainty and alleged stigmatising effect of the reporting requirements. The draft law is pending in the House of Representatives.

<sup>287</sup> Joint contribution from the Netherlands Helsinki Committee, Free Press Unlimited, Transparency International Nederland and NJCM for the 2024 Rule of Law Report, pp. 4, 23 referring to a motion adopted by the House of Representatives on 21 February 2023. On 4 April 2024, the Government responded to the motion emphasising the importance of access to justice for interest groups undertaking collective actions. It also mentioned that relevant Mass Damages in Class Actions Act (WAMCA), where the requirements for interest groups have been tightened, including the representativeness requirement will undergo an evaluation in the second half of 2024. The coalition agreement also refers to an investigation into the possibility to impose further representativeness requirements; Convention on access to information, public participation in decision-making and access to justice in environmental matters, Aarhus, 25 June 1998, article 9(3).

## Annex I: List of sources in alphabetical order\*

\* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at [https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation\\_en](https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en).

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## **Annex II: Country visit to the Netherlands**

The Commission services held virtual meetings in March 2024 with:

- Commissariaat voor de Media
- Dutch Foundation for Public Broadcasting
- Huis voor Klokkenluiders
- Fiscale Inlichtingen en Opsporingsdienst
- Commissie Meijers
- Free Press Unlimited
- Nederlands Juristencomité voor de Mensenrechten
- Nederlandse Orde van Advocaten
- Nederlandse Vereniging voor de Rechtsspraak
- Netherlands Helsinki Committee
- National Ombudsman
- National Police
- National Internal Investigations Department
- Prosecution service
- Raad voor de rechtsspraak
- State Commission on the functioning of the rule of law
- Supreme Court
- Transparency International

\* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations