

Questionnaire

A – The role of CSOs and rights defenders in ensuring the effective implementation of the Charter at national level

1. How do CSOs contribute to activities aimed at making the fundamental rights enshrined in the Charter a reality in your country? Please give examples.

CSOs contribute to making fundamental rights in the Netherlands a reality in a wide range of ways. They comment on legislative proposals and policy initiatives, approach politicians and journalists and use social media (amongst others) to address their fundamental rights concerns. Generally, however, they tend not to focus on the specific source of a fundamental right. Where relevant, in particular in areas where EU law applies (through directives, regulations, or in cross-border/free movement situations), CSOs would generally refer to the Charter, as well as to other important sources for the protection of fundamental rights in the Netherlands (in particular, the Dutch constitution and the European Convention on Human Rights (ECHR)).

Sometimes CSOs also take legal action. A coalition of different CSO's and private individuals, for example, initiated court proceedings to challenge the lawfulness of a legal instrument used by the Dutch government to detect various forms of fraud, including social benefits, allowances, and taxes fraud (SyRI). This claim was based, amongst others, on a violation of Articles 7 and 8 of the Charter.¹

To increase knowledge on fundamental rights and stimulate discussion amongst legal experts and practitioners CSOs often organize meetings and seminars in the Netherlands. The Dutch section of the International Commission of Jurists (NJCM) organized different seminars on the Charter, for example in 2019 after the Charter's ten year anniversary on the added value of the Charter in legal practice in the Netherlands.²

2. In which areas do CSOs contribute the most to the protection of fundamental rights?

There is a rich diversity of CSOs active in the Netherlands, at national as well international level. Given the wide range of issues which they are focused on, the impact of these CSO's can hardly be measured and is not restricted to (only) a few areas.

There are, for example, various organisations in the Netherlands with a focus on the rights of LGBTI, also at a more local level. The so-called Rainbow agreement, which was signed by COC Netherlands and different Dutch political parties, was included in the coalition agreement of the Dutch government of December 2021.³ Various measures, including the adoption of an explicit prohibition of LGBTI-discrimination in the Dutch Constitution, should accordingly be taken in this area by the Dutch government in the next few years.

Controle Alt Delete, an organisation with a focus on ethnic profiling also drafted an agreement on the fight against fraud which received the support of different political parties in the Netherlands.⁴

In another area, legal action was undertaken by Urgenda, a CSO which claimed that the Dutch State needed to take further measures to reduce the emission of greenhouse gas emissions. The claim was based on Articles 2 and 8 of the ECHR. This resulted in the verdict that the Dutch State needs to reduce greenhouse gas emissions by 25% by the end of 2020.⁵

¹ District Court of the Hague, 5 February 2020, [ECLI:NL:RBDHA:2020:865](#), par. 5.1.

² [NJCM-seminar: Tien jaar EU-grondrechtenhandvest. Al van toegevoegde waarde voor de Nederlandse rechtspraak? - NJCM.](#)

³ [COC-Regenboog-Stembusakkoord-2021.pdf.](#)

⁴ [Stembusakkoord over fraudebestrijding \(controlealtdelete.nl\).](#)

⁵ Dutch Supreme Court, 20 December 2019, [ECLI:NL:HR:2019:2007.](#)

These are just some examples of the impact of CSOs on the protection of fundamental rights in the Netherlands.

3. How do rights defenders, including NHRIs, Equality bodies and Ombuds-institutions, contribute to activities aimed at making the fundamental rights enshrined in the Charter a reality in your country? Please give examples.

Rights defenders, as well as CSOs (as explained before), generally tend not to focus on the specific source of a fundamental right. Where relevant, in particular in areas where EU law applies (through directives, regulations, or in cross-border/free movement situations), rights defenders could also refer to the Charter, as well as to other important sources for the protection of fundamental rights in the Netherlands (in particular, the Dutch constitution and the ECHR).

The Netherlands Institute for Human Rights, amongst others, gives advice to the government on legislative proposals, and may refer to the Charter in its opinions.⁶ For example, with regard to an amendment of the Dutch pension system, it advised the Dutch government to pay more specific attention to the applicable fundamental rights norms, including those of the Charter (Articles 21 and 23). In its opinion, it concluded that the amendment has adverse effects in particular for young employees who temporarily don't work or on a part-time basis. This leads to the indirect discrimination of women and requires compensation, according to the Netherlands Institute for Human Rights.

Another task of the Netherlands Institute for Human Rights is to provide education on fundamental rights. It aims to ensure that everyone in the Netherlands understands their rights and is able to make use of it. As part of this, it explains the meaning and the different sources of fundamental rights on its website.⁷ Specific references are made to the Charter. Since the Netherlands Institute for Human Rights also deals with complaints about discrimination, the website also specifically refers to the prohibition of discrimination in the Charter (Article 21), as well as to more specific rules on non-discrimination which are laid down in various EU-directives.

4. In which areas do right defenders contribute the most to the protection of fundamental rights?

It is impossible to sum up the areas in which rights defenders have the most impact on the protection of fundamental rights given. The mandate of the Netherlands Institute for Human Rights and the Dutch Ombudsman is also not restricted to specific areas or specific fundamental rights. The activities of these rights defenders can be found on their websites.⁸

As for the Netherlands Institute for Human Rights, its strategic fundamental rights focus is currently on digitalization, gender equality and the monitoring of the Convention on the Rights of Persons with Disabilities (2020-2023).⁹ The Dutch ombudsman also focuses on the protection on fundamental rights. The Dutch Ombudsman currently focuses on the use of data and algorithms by the Dutch government, the housing market, the rights of children, the

⁶ College voor de Rechten van de Mens, [Advies inzake conceptvoorstel Wet toekomst pensioenen](#), 20 oktober 2021.

⁷ [Welke mensenrechten zijn er? | Mensenrechten](#).

⁸ [College voor de Rechten van de Mens \(mensenrechten.nl\)](#) and [Waarmee kunnen wij u helpen | Nationale ombudsman](#).

⁹ College voor de Rechten van de Mens, [Strategisch Plan 2020-2023](#).

handling of complaints on ethnic profiling, and on detention and the position of refugees in the Caribbean part of the Netherlands (2021 and following years).¹⁰

B – The work of the Member States to protect CSOs and rights defenders

5. How do you ensure that CSOs and rights defenders work in a safe and enabling environment?

Domestically, the Netherlands ensures the protection of persons, objects and services, through the “surveillance and protection system”. This layered system bases itself on (a limited number of) laws and regulations. It also includes the work place and other agreements between the partners involved. The surveillance and protection system is aimed at preventing (terrorist) attacks on persons, objects and services. It regulates how protection is offered in case of a threat. The protection of persons focuses on the prevention of a serious violation of the physical integrity of persons. One of the principles of this system is that persons are personally responsible for their safety. They can rely on organisations they are a member of or work for. Companies and institutions have to take measures to prevent that the safety of staff members is jeopardised due to their work. The government can take additional security measures if persons or the organisations they are a member of or work for cannot remove the threat and the risk on their own. The apportionment of costs is based on the division of responsibility.

Abroad, rights defenders often have to contend serious threats and violence. The government supports rights defenders so they can do their work effectively and safely.

The Netherlands helps human rights defenders in a number of ways. The Netherlands follows the European Union’s guidelines on human rights defenders. The guidelines aim to improve the support and protection given to human rights defenders in non-EU countries. National missions work with fellow EU member states and the EUDel to assist human rights defenders.

Through the Human Rights Fund the Netherlands also provides financial support for human rights defenders and non-governmental organisations (NGOs) that promote human rights worldwide. Such funds may be used for training, for instance to learn how to protect data on their computers and smartphones, or to participate successfully in United Nations Human Rights Council meetings.

The Netherlands furthermore organises Shelter City on an annual basis. Human rights defenders who are under threat or pressure in their own country can stay in the Netherlands for up to 3 months. This allows them to catch their breath, and temporarily continue their work in a safe and restful setting. It also gives them an opportunity to expand their network of civil society organisations and political contacts, and take training courses to improve skills. For example, they can take English lessons or learn how to persuade more people that human rights are important.

Each year, the government also awards the Human Rights Tulip to a person or organisation that promotes human rights worldwide in innovative ways, funded by the Human Rights Fund. The winner receives €75,000 to fund a new project and €25,000 to spend on training. This money allows them to continue their work and help more people.

6. Please explain the main features of the legal framework applicable to CSOs (for example, rules on declaration/registration/dissolution, rules governing the exercise of their activities, court decisions relating to the application of this legal framework, etc.). Please add relevant references to such rules.

¹⁰ Ombudsman, fundamentele rechten 2021 en verder.

CSOs are protected by the freedom of association as contained in Article 8 of the Dutch constitution. The term "association" is understood in a very broad sense. It not only guarantees the existence and activities of political movements, but also provides space for any more or less stable associations of like-minded citizens. This provision protects the freedom to form and be members of associations, and it also protects the association as such. The right of association is, furthermore, closely linked to other fundamental rights. Various activities can be carried out in associations that are protected by, among other things, freedom of expression, the right to assemble and demonstrate, freedom of religion and freedom of education.

Article 8 of the Constitution permits limitations to the freedom of association by law, in the interest of public order. It follows from the clause 'by law' that only the formal legislator is empowered to impose restrictions on the right of association. A restriction must therefore always be directly attributable to the conditions set by the democratically elected legislator. This protects citizens against arbitrary restrictions on the right of association.

At the same time, freedom of association can form the basis for the organised development of activities that can seriously threaten public order and security, or are even hostile to democracy as such. At those moments it may be necessary to restrict the freedom of association, precisely in order to protect the foundations of the democratic constitutional state.

Book 2 of the Dutch Civil Code contains the specific provisions on private-law legal entities such as associations and foundations, and includes rules, amongst others, on the dissolution of associations.

7. Do you have in place a system for reporting and monitoring threats or attacks (including physical attacks) on CSOs activists and rights defenders? If yes, how does it work?

At this moment, a dashboard is being developed that will provide a current insight in information for the purpose of the surveillance and protection system, including the number of threats against persons and objects.

8. Do you provide for, support, or finance an alert mechanism and/or supporting services in case of physical and on-line attacks to CSOs activists and rights defenders?

Also see question 5.

As part of its broad offensive against undermining crime, the Netherlands has been supportive to strengthening the resilience of judges, prosecutors, lawyers and journalists since 2020. Best practices and experiences have been shared amongst these groups. Various measures and initiatives, such as resilience trainings, objectscans and psychosocial support, have also been financed.

9. Are you part of the Open Government Partnership (OGP)? If yes, could you share the link to your latest OGP action plan?

The Netherlands has been a member to the OGP since 2012. The OGP action plan of 2020-2022 can be found here: https://www.opengovpartnership.org/wp-content/uploads/2021/01/Netherlands_Action-Plan_2020-2022.pdf

A specific website has been dedicated to this action plan which provides further information.¹¹

¹¹ [Actieplan Open Overheid 2020-2022 van het ministerie van BZK \(open-overheid.nl\)](https://www.open-overheid.nl/actieplan-open-overheid-2020-2022).

10. Do you assess how CSOs are impacted by legislative proposals in the legislative preparatory work? If yes, please briefly describe the process/mechanism.

The Netherlands has developed the *integrated impact assessment framework for policy and legislation* (IAK), which provides structure for formulating sound policy and legislation.¹²

The seven questions of the Dutch comprehensive impact assessment system IAK (see www.naarhetaik.nl) serve as principles and demands for government officials when drafting a legislative proposal on the order of a Minister or State Secretary. The answers to the seven questions are checked by several supervising authorities before the proposal is sent to the Council of Ministers.

One of the elements of the assessment is a check for practicability and enforceability of legislative proposals. If the assessment shows substantial effects for one of the parties involved in its execution (which may include civilians), they should be consulted.

The IAK is being revised to ensure that it is applied even better in the formulation of policy and legislation. This includes looking at the development of a digital system that can support the formulation of policy and regulations. The IAK will also become a better part of education and training for civil servants.

11. Do you consider it necessary to improve the cooperation between Member States and the EU to strengthen the level of protection of CSOs and rights defenders working to protect fundamental rights? How?

The Dutch government generally believes that an active and free civil society and the ability to stand up for your rights are core values of a democratic state. A strong civil society also contributes to strengthening the rule of law. These values should be actively protected and should be encouraged, including through foreign policy. Respecting the principle of subsidiarity, action at the EU level could contribute to obtaining stronger checks and balances on the EU governance level and with regards to aspects that pose cross-border challenges.

C – The work of the Member States to support CSOs and rights defenders

12. Please indicate which public authorities are competent to disburse public funding and the main programmes of funding available at national and local level for CSOs working to protect and promote fundamental rights.

- (a) How do authorities select the CSOs, and what are the main conditions they have to fulfil?**
- (b) How do authorities ensure a fair distribution of funds among CSOs?**
- (c) Is there public funding available for organisations' core costs for administrative expenditures and infrastructure?**
- (d) Is there public funding available for human rights advocacy?**

Domestically

CSOs can apply for a wide range of subsidies at the national, regional and local level of government. The terms and conditions for those subsidies can vary, but there is a general legal framework laid down in the General Administrative Law Act. This framework contains rules on the rights and obligations that rest on both the administrative body providing the subsidy and the organization receiving it.

The competence to disburse public funding is therefore distributed over different departments and directorates of ministries or local authorities. CSOs can pitch their ideas to directorates to get

¹² See English summary: [jak.english.incl.corrections.02-11-2017.pdf\(kcbr.nl\)](http://jak.english.incl.corrections.02-11-2017.pdf(kcbr.nl)).

grants for their work/projects, but it is also possible to obtain grants for multiple years. This happens through so called partnerships in which the government sets the topic on which grants can be given. It is then up to the CSO's to decide how to use the grant in order to get results that they wish to accomplish. For example, the ministry of Education, Culture and Science has a 4 year partnership with gender equality bodies that work on achieving gender equality. The CSO's are independent and criticize the government whenever they see fit. This is encouraged by the government and can help to achieve better policies and laws.

The government thus actively promotes funding programmes for civil society organisations. It has also set up a national contact point in 2021 to inform and support civil society organisations to obtain funding under this programme under the EU Citizens, Equality, Rights and Values-programme.

Internationally

The Netherlands (financially) supports civil society organisations abroad as well. The aim is to reduce inequality, combat corruption, and amplify voices of citizens to stand up for their rights. There is specific attention for the realisation of women's rights and gender equality (SDG 5 fund). Two grant funds fall within this policy framework: Power of Voices and the SDG5 fund. Power of Voices encompasses three instruments: Power of Voices Partnerships, the grants policy framework for Voice; focusing on strengthening the most marginalised and discriminated groups, and the Accountability Fund. The SDG5 fund comprises the subsidy instruments Power of Women; Women, Peace and Security; the Sexual and Reproductive Health and Rights Partnership Fund and Leading from the South.

Power of Voices Partnerships

Consortia of CSOs are eligible to become the Netherlands' strategic partner under the [Power of Voices Partnerships](#). A consortium consists of several consortium partners, one of which acts as the lead party. Applications must be submitted by a lead party on behalf of the consortium. The lead party may be either a Dutch CSO or a CSO from a low-income, lower-middle-income or upper-middle-income country.

Consortium partners may be:

- CSOs with their head office in a low-income, lower-middle-income or upper-middle income country, with proven quality and an established Track Record on capacity strengthening of CSOs in the area of lobbying and advocacy. Such a CSO may take the role of lead party or consortium partner;
- Dutch CSOs, with proven quality and an established track record on capacity strengthening of CSOs in the area of lobbying and advocacy. Such a CSO may take the role of lead party or consortium partner;
- International non-governmental organisations (INGOs) based in a high-income country other than the Netherlands, with proven quality and an established track record on capacity strengthening of CSOs in the area of lobbying and advocacy. Such an INGO may not take the role of lead party.

The provisions of the General Administrative Law Act, the Ministry of Foreign Affairs Grants Decree and the Ministry of Foreign Affairs Grant Regulations 2016 are fully applicable to the assessment of applications under Power of Voices Partnerships. Applications will be assessed in accordance with this legislation and pursuant to the criteria set out in the grant policy framework. Applications for a strategic partnership grant are assessed in three stages, resulting in a decision on which consortia are eligible for a strategic partnership and grant award.

1. The first stage consists of a check against the threshold criteria.
2. The second stage consists of an assessment of the quality of the consortium's Theory of Change, its vision on working with local organisations in the application proposed countries, and

the quality of the track record of the consortium and the consortium partners.

3. The third stage consists of an assessment of the consortium's comprehensive program.

There is public funding available for human rights advocacy within different funding streams of the Netherlands (ODA and non-ODA). Within the Strengthening Civil Society programs lobby and advocacy and capacity activities are supported, which can be used for human rights advocacy.

Human Rights Fund

The Human Rights Fund provides funding for CSOs, among others, to protect and support human rights defenders. The current Human Rights Fund Grant Policy Framework ran from 2019 until 2021. The grant policy framework for 2022 – 2027 (EUR 40M) was published in the second quarter of 2022. Its main goal is to increase the holistic safety (online and offline) of human rights defenders and journalists, focusing both on prevention and protection. Eligible organisations include CSOs worldwide, as long as domestic legislation allows such organisations to work in countries worldwide.

Applications will be assessed in two stages:

1. Check against the threshold criteria.
2. If applications fulfil the threshold criteria, an assessment of the quality will follow. The quality of the proposal will be scored based on the qualitative criteria that will be listed in the grant policy framework.

Based on the scoring of the eligible applications, a first selection will be made. Before granting funding to the selected organisation, they will undergo an organisational capacity assessment. The grant policy framework allows for activities to be focused on lobby and advocacy to improve the safety of human rights defenders and journalists.

13. Do you have a system in place to get an overview or to coordinate the funding opportunities available at the different levels? By whom is it coordinated, and how does it work?

Because of the rich diversity of CSOs and rights defenders in the Netherlands, there is not one system in place which provides an overview of the funding opportunities available in the Netherlands to protect fundamental rights. There are various tools available online which provide overviews of funds available. For example, the Netherlands Enterprise Agency provides help to enterprises as well as to non-profit organisations in finding financial support.¹³ The organisation *Kenniscentrum Europa Decentraal*, specifically provides an overview of EU-funding and subsidies, which may have a focus on protecting fundamental rights (such as the CERV-programme).

In respect of the funds which are disbursed by the Ministry of Foreign Affairs, call for applications are announced in the Official Gazette and are shared with CSO networks. To keep an overview, large programs from central funding are discussed within the DGIS management board for approval. Embassies have the lead and the overview of programs from decentral funding.

14. Has any process to simplify and speed up access to funding been considered/adopted/implemented?

In respect of the funds which are disbursed by the Ministry of Foreign Affairs, the Netherlands works with threshold criteria, which are criteria an application must meet in any case in order to be eligible for a grant. Efforts have been made to simplify these criteria as much as possible to foster the accessibility for southern organisations. The ambition is to lower administrative

¹³ RVO, [Subsidie- en financieringswijzer](#).

requirements where possible. More information on assessment and selection procedure and criteria within the Power of Voices partnerships specifically, can be found in chapter 3 of [the Policy Framework Strengthening Civil Society Power of Voices Partnerships](#).

15. Does your taxation system provide for a tax exception/relief/incentive in case of donations to CSOs?

Yes, the Dutch tax system provides for certain tax incentives in case of donations to CSOs, on the condition that the CSO qualifies as a *Public Benefit Organization* (Dutch: *Algemeen Nut Beogende Instelling*, ANBI). Certain conditions must be fulfilled to qualify as an ANBI, such as that at least 90% of the efforts of an ANBI has to be focused on the general good. There are over 40.000 ANBIs in the Netherlands. A list of all the ANBIs is published by the Dutch Tax Administration.

Donations to an ANBI are tax deductible if the sum of someone's gifts to ANBIs exceeds 1% of the Dutch threshold income and € 60 in a calendar year. The excess, with a maximum of 10% of that income, is deductible income. There's no limit to the tax deduction if the individual and the ANBI contractually agree to equal and fixed donations for at least 5 years.

Corporate organizations have access to a similar tax deduction. That deduction cannot exceed 50% of the profits, up to a maximum of € 100.000.

The ANBI itself is exempted from inheritance tax and gift tax on inheritances and gifts it receives, except on those made under a condition such that it is not for public benefit.

16. What is the legal framework applicable to donations for other EU countries or third countries to CSOs?

There is a legislative proposal currently pending before the Parliament. The legislative proposal has been drafted in order to provide more transparency for associations, foundations and churches to publicly disclose substantive donations they receive from outside the EU/EEA and in addition, for foundations to disclose their annual accounts (Wetsvoorstel transparantie maatschappelijke organisaties).

D – The work of the Member States to empower CSOs and rights defenders

17. Is there a structured dialogue policy between CSOs and public authorities at local, regional and national level? Is there a body representing the interest of CSOs? How is it composed and which are its competences?

To find information and share expertise on human rights in municipal practice, the Human Rights and Municipalities Platform has recently been set up. This platform is a cooperation between the Ministry of the Interior and Kingdom Relations, the Association for Dutch Municipalities (VNG), the Institute for Human Rights, and the National Ombudsman is also involved.

Within the context of the Dutch action plan on an open government, a multi stakeholder forum (MSF) has also been set up. Several CSOs take part in this forum.¹⁴

18. What is the process of consultation of CSOs regarding legislative proposals having an impact on civil society and civic space?

One of the phases of the abovementioned *integrated impact assessment framework for policy and legislation* (IAK) assessment involves identifying all parties involved. This includes CSOs.

¹⁴ <https://www.open-overheid.nl/multi-stakeholder-forum/>.

As mentioned above in question 10, if the assessment shows substantial effects for one of the parties involved in its execution (which may include civilians), they should be consulted.

19. Do you have an easily accessible one-stop-shop online platform in place, which regroups all consultations with CSOs and the public?

As a rule, all new legislative proposals are published for public consultation, during which anyone can publish their opinion, public as well as non-public. This is accessible on one central platform: internetconsultatie.nl. Since 2021 the Netherlands is actively trying to improve comprehensibility of this platform and to strengthen the position of internet consultation in the policy to enhance legislative its quality.

20. Do you have any guidelines or standards on public participation?

There is no specific regulation that stipulates the involvement of CSOs in the development of legislation focused on the safeguarding of specific fundamental rights.

Where possible and relevant, the notification on the regulation (*Aanwijzingen voor de regelgeving*) details which external parties have contributed to the development of the regulations, in what way they were involved, what the extent/content of their contribution was and how this contribution was incorporated in the legislation.

The framework also stipulates that the explanatory memorandum that accompanies all legislation should include the consultation of parties, explaining the contents of their advice and how this was used.

21. Are CSOs or, where relevant, NHRIs included in the committees set up to monitoring the implementation of EU funded programmes under the Common Provisions Regulation (CPR)⁷ and are they involved in the arrangements set up under the horizontal enabling condition to ensure compliance with the Charter? If so, what is their role in this context?

At this point, the setup of the monitoring committees of the different programmes has not yet been finalised. Where possible and relevant, CSO will be approached and included in the committees and in some cases, where programmes are more advanced, this has already been done. The NHRI is thereby one of the possible organisations that has or will be approached.

The NHRI plays a key role in fulfilling the horizontal enabling conditions. Through their legally defined tasks and service they will contribute to ensure compliance with the Charter (including, for example, through their existent complaint procedures).