
CCBE Questionnaire regarding the European Commission consultation for the 2026 Rule of Law

Introduction

Please find below the CCBE questionnaire for collecting information from its member Bars and Law Societies of the EU Member States regarding the CCBE's response to the public consultation launched by the European Commission for the 2026 Rule of Law Report (RoL) Report.

The structure of this questionnaire is based on Chapter I "Justice system" of the questionnaire of the European Commission with additional elements to incorporate more detailed aspects related to the independence of lawyers and Bars. Please note that this questionnaire is used only for internal purposes of the CCBE to better structure and organise the collection of information from the delegations.

The replies to this questionnaire should include references to the following types of information:

A) Legislative developments

- newly adopted legislation
- legislative drafts currently discussed in Parliament
- legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- evaluations, impact assessment, surveys
- white papers/strategies/actions plan/consultation processes
- follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- important administrative measures
- generalised practices

C) Developments related to the judiciary / independent authorities

- important case law by national courts
- important decision/opinions from independent bodies/authorities
- state of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, Prosecutor General, heads of independent authorities included in the scope of the request for input).

Significant developments in this questionnaire can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices. **If there are no developments, it is sufficient to indicate this** and the information covered in the contributions for the previous Rule of Law Reports does not need to be repeated.

Where case examples are provided, we would appreciate receiving 4-5 sentences max. on each case. In addition to these 4-5 sentences, please provide the background information (active links to relevant documents, information sources, etc., if possible, in English).

In case you consider that (part of) the information provided by you should not be published and should not be available online, you are kindly invited to mention this explicitly in your email. In this case, we will ensure that this particular part of the CCBE contribution is provided separately to the European Commission, without disclosing the source of it.

CCBE member Bars and Law Societies of the EU Member States and associated members covered by the 2025 RoL Report (Albania, Montenegro, North Macedonia, Serbia) are kindly invited to send their responses to this

questionnaire in Word format via email to bule@ccbe.eu as soon as possible, and by 23 January 2026 at the latest.

Please note that the timeframe relevant to this questionnaire is the year 2025, and therefore, all responses should concern cases or examples that occurred within this specified year.

Questionnaire

Answers provided by: [Netherlands Bar](#)

Justice System

1. Please provide information on measures taken to follow-up on the [recommendations](#) of the European Commission received in the 2025 Report regarding the justice system (if applicable; this question is relevant only to **full** CCBE members, associated members covered by the 2025 RoL Report (Albania, Montenegro, North Macedonia, Serbia) are not requested to answer this question).

In 2025, attention to the rule of law in the Netherlands has further increased, partly as a result of the societal impact of previous scandals (such as the Childcare Benefits Affair) and the critical opinions of the Council of State regarding government plans. Various political parties have included proposals in their 2025 election manifestos aimed at strengthening the independence of the judiciary. Positive developments include:

- Independence of the Council for the Judiciary: Several parties advocate for a separate budget for the Council for the Judiciary and for increasing the distance between politics and the judiciary. This is seen as a strengthening of the trias politica and the independence of the judiciary.
- Constitutional review: There is broad consensus on abolishing the prohibition on constitutional review (Article 120 of the Constitution), allowing judges to test laws against the Constitution. This is considered an important step for the protection of fundamental rights.
- Efficiency of procedures: Proposals have been made to accelerate objection and appeal procedures, particularly in the context of housing and infrastructure. At the same time, the committee for the rule of law review of election manifestos (established by the Netherlands Bar) warns that shortening deadlines must not lead to the loss of an effective legal remedy (Article 13 ECHR).

Alongside these positive developments, there are also risks. A significant number of party manifestos contain proposals that restrict access to the courts, for example by limiting the right to collective actions or by increasing court fees. Such proposals may undermine the effectiveness of the rule of law.

Independence

2. Significant developments in your country in 2025, if any, related to appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

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

Constitutional review: There is broad consensus on abolishing the prohibition on constitutional review (Article 120 of the Constitution), allowing judges to test laws against the Constitution. This is considered an important step for the protection of fundamental rights.

3. Significant developments in your country in 2025, if any, related to irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

4. Significant developments in your country in 2025, if any, related to promotion of judges and prosecutors (incl. judicial review)

5. Significant developments in your country in 2025, if any, related to allocation of cases in courts

6. Significant developments in your country in 2025, if any, related to independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

Several parties advocate for a separate budget for the Council for the Judiciary and for increasing the distance between politics and the judiciary. This is seen as a strengthening of the trias politica and the independence of the judiciary.

7. Significant developments in your country in 2025, if any, related to accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

8. Significant developments in your country in 2025, if any, related to remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information

9. Significant developments in your country in 2025, if any, related to independence/autonomy of the prosecution service

In the summer of 2025, the Dutch Prosecution Service (OM) experienced a major ICT outage that disrupted its operations nationwide. Due to a detected “vulnerability,” the OM disconnected all systems from the internet. Staff could only access the system at the office, were unreachable by email, and case files had to be sent by post instead of being shared digitally through the Lawyers’ Portal. Lawyers expressed frustration over the absence of a clear crisis plan. The disruption left many practitioners uncertain about how to proceed with ongoing cases, causing delays and operational inefficiencies. The Netherlands Bar closely monitored the situation, set up a hotline for lawyers experiencing problems, and engaged with the OM and other stakeholders to safeguard the rights of lawyers and their clients during the outage. The incident underscored the need for robust and secure digital systems within the prosecution service, and highlighted the importance of contingency planning to protect the integrity of judicial processes.

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

10. Cases/examples undermining or not respecting confidentiality of lawyer-client communications in 2025 in your country (including the search and seizure of electronic data held by the lawyer,

interception of lawyer-client communications, the surveillance and searches of the premises of the lawyer, unjustified administrative checks, challenges faced by the Bar in addressing instances of breaches of confidentiality of lawyer-client communications, etc.).

The Netherlands Bar has repeatedly raised concerns with the Custodial Institutions Agency (DJI) regarding the implementation of the amended Penitentiary Principles Act. These concerns focus on potential breaches of confidentiality during visual supervision of lawyers and their clients in the Extra Security Institution (EBI) and Intensive Supervision Departments (AITs).

The Netherlands Bar emphasises that lawyers must be able to uphold their statutory duty of confidentiality. In 2025, the Netherlands Bar found it insufficiently clear how confidentiality is safeguarded during lawyer-client visits in EBI and AITs. This was reiterated in a letter of concern to the Director-General responsible for the prison system. During consultations between the Ministry of Justice and Security, DJI, and the Netherlands Bar on 24 November 2025—referenced by State Secretary Rutte in their letter—it was explicitly discussed that DJI is now responsible. DJI must urgently ensure adequate safeguards in the implementation of the law and provide clear information about these measures. The Netherlands Bar insists that these necessary safeguards must be established as soon as possible.

11. Cases/examples of physical, online or legal threats or harassment (for example, by clients, opposing parties, governmental or other authorities, media) of lawyers while exercising their professional duties, as well as unjustified attacks on the role of lawyers and Bars, including preventive measures taken by the Bar in 2025 in your country.

Since 2019, a package of measures from the Taskforce Protection against Subversion has been further developed under the broad heading of Resilience & Safety. In the Netherlands, a biennial study is conducted to map out the pressure and threats faced by lawyers. The package of measures is supported by government subsidies.

Developments in society, such as increasing polarisation—including within organised crime—are putting lawyers under significant pressure from clients. This pressure manifests in various ways, ranging from emotional outbursts in family law practice to manipulation by organised crime, aimed at forcing lawyers to act or refrain from acting.

The Netherlands Bar seeks to support the profession as much as possible in this regard. Key facilities include resilience training (which is continuously developed), confidential lawyers, a 24/7 emergency phone, an emergency button, and security scans.

Examples of new initiatives:

- Investment in professional training, with resilience addressed from day one.
- Standard-setting whereby professional rules of conduct provide concrete and practical guidance in high-risk situations and protect the profession as a whole. The Netherlands Bar seeks to encourage safeguarding and valuing professional distance from clients.
- Enhancing digital resilience.
- Cooperation across the chain, recognising that resilience and safety are a shared responsibility of all chain partners.

12. Specific legal provisions and policies in your country (draft or adopted) which could negatively influence the independence of the Bar and lawyers (as regards self-regulation, disciplinary procedures, etc.) in 2025.

In 2025, the Netherlands Bar expressed strong criticism regarding the consultation process for the draft Dual Status System Act and the Asylum Emergency Measures Act. There is significant concern about the extremely short consultation period and the confidential nature of the consultations, during which important partners

in the asylum chain were either not involved or only partially consulted. This approach does not fit within a democratic rule of law and should not be normalised.

Furthermore, the necessity for these measures has not been convincingly substantiated. According to the Netherlands Bar, the measures will not achieve their intended goal of reducing the number of people applying for asylum in the Netherlands. Instead, it is expected that these measures will result in more and increasingly complex procedures, longer processing times, higher societal costs, and greater workload for the Immigration and Naturalisation Service (IND) and the judiciary. The measures are unlikely to lead to a lower influx, but rather to a lower outflow, and are therefore considered counterproductive.

Such legislative processes and policies—characterised by limited transparency, insufficient consultation, and potentially negative effects on access to justice—can undermine the independence of the Bar and lawyers, particularly in their role as defenders of the rule of law and effective legal representation.

13. Specific examples of problems in relation to the cooperation between your Bar and the executive branch of the government and/or supervisory authorities (if relevant), and cases of political pressure and interference regarding the role of the Bar or lawyers in your country (including any efforts made by your Bar to resist or counter such pressure/interferences) in 2025.

In 2025, the Netherlands Bar encountered a significant issue in cooperation with the executive branch regarding lawyers' access to digital devices in prisons. The Custodial Institutions Agency (DJI) initially planned to restrict lawyers from bringing their own devices (such as laptops and mobile phones) when visiting clients in penitentiary institutions. The Netherlands Bar strongly opposed this, arguing that such restrictions would make it practically impossible for lawyers to provide adequate legal assistance, as digital files are essential for defence work and client confidentiality.

After sustained advocacy and dialogue, the Netherlands Bar succeeded in ensuring that lawyers are, in principle, still allowed to bring their own devices to regular prisons. The Netherlands Bar continues to advocate for similar rights in Intensive Supervision Departments (AITs) and for the possibility to bring a second device for secure access.

14. Problems and difficulties in your country implementing the case law of national, European, and international courts due to legal, administrative, or procedural issues in 2025.

In 2025, the Netherlands Bar called on the government to reconsider its decision to stop publishing general and thematic official country reports (“ambtsberichten”) used in asylum procedures. This decision poses a risk to the rule of law. While the state can continue to use crucial information about the country of origin in asylum cases, applicants and their legal representatives are denied access to up-to-date safety information. The Netherlands Bar considers this to be in violation of the principle of “equality of arms,” as well as EU law and Dutch legislation such as the Public Access to Government Information Act (WOO) and the General Administrative Law Act (Awb). Official country reports play a central role in asylum law practice; they are a key source for asylum policy and form the basis for decisions on individual asylum applications. The failure to publish these reports is contrary to the “equality of arms” principle and the right to a fair trial.

Collecting relevant country information for asylum procedures is an obligation under EU law, specifically the Procedures Directive, which also requires that this information be made available to asylum seekers and their legal representatives. The discontinuation of this long-standing practice—without providing an alternative means of sharing this information—conflicts with these legal requirements.

An external expert committee previously concluded in the Netherlands Bar report “Rule of Law Review of the Government Programme 2024” that withholding this essential source poses a risk and violates the “equality of arms” principle. This principle derives from the right to an effective remedy, as laid down in Article 13 of the European Convention on Human Rights (ECHR) and Article 47 of the Charter of Fundamental Rights of the European Union.

As with recent asylum legislation, the Netherlands Bar also notes a lack of consultation with experts and practitioners. This decision is expected to increase pressure on both the implementation process and the judiciary.

15. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary **and independence of lawyers (including possible initiatives of the Bar to address such developments) in 2025**.

In 2025, the growing use of artificial intelligence (AI) in legal practice raised concerns about safeguarding the independence of lawyers and the integrity of core professional values. The Netherlands Bar addressed these developments proactively by publishing guidance on the responsible use of AI in the legal profession. The Netherlands Bar emphasised that AI tools must never compromise the fundamental principles of the profession, such as independence, confidentiality, and integrity. It stressed that lawyers remain fully responsible for their work, even when using AI-assisted solutions, and that human judgment cannot be delegated to algorithms. The guidance also highlighted the need for transparency in AI applications and compliance with ethical and legal standards. By issuing these principles, the Netherlands Bar aimed to reassure both the profession and the public that technological innovation will be integrated in a way that respects core values and does not undermine trust in the independence of lawyers.

Quality of justice

16. Significant developments in your country in 2025, if any, related to accessibility of courts (e.g. court/legal fees, legal aid, language)

Problems and challenges, as well as positive developments in the area of accessibility of courts in your country in 2025 (including as regards, for example, the legal aid system and remuneration of lawyers, court/legal fees, language barriers, as well as efforts of the Bar to improve accessibility).

The accessibility of the courts remains a central point of attention. In 2025, various proposals have been made to strengthen government funded legal aid, including through structural investments and increasing remuneration. These are widely regarded as positive, as they improve access to justice for those with limited means.

- Legal aid: Several political parties want to structurally strengthen government funded legal aid, for example by increasing remuneration, lowering personal contributions, and broadening income thresholds. There is also a call to maintain and strengthen low-threshold facilities such as the Legal Aid Desk.

- Efforts of the Bar: The Netherlands Bar continues to advocate for accessible legal assistance and has once again highlighted in 2025 the position of legal aid lawyers and the need for sufficient funding. There is also attention for the regional distribution of legal aid and for encouraging young lawyers to choose government funded legal aid work.

17. Significant developments in your country in 2025, if any, related to resources of the judiciary (human/financial/material) **as well as any efforts of the government or judiciary to address the relevant challenges in 2025** (material resources refer e.g. to court buildings and other facilities, financial resources include salaries of staff in courts and prosecution offices).

18. Significant developments in your country in 2025, if any, related to training of justice professionals (including judges, prosecutors, **lawyers**, court staff, clerks/trainees)

Problems and challenges, as well as positive developments in the area of training of lawyers (initial training and continuous training), as well as relevant initiatives of the Bar in this area in 2025.

In 2025, an external visitation committee confirmed that the vocational training for lawyers meets all quality standards set under the BA2020 framework (the vocational training framework as offered since 2020), with particular recognition for its practice-oriented approach, didactic vision and committed teaching teams. The Netherlands Bar will incorporate the committee's recommendations, such as improving transparency around assessments, into the further development of the programme, reinforcing the solid foundation of vocational training.

A significant legal clarification further marked the year: the Supreme Court ruled that the costs of the mandatory vocational training for lawyers and the required permanent education points must be borne entirely by employers. Since this training is considered necessary for the exercise of the profession, any contractual arrangement shifting these costs to the trainee is invalid under national and EU law. This ruling, prompted by questions raised at the initiative of the Netherlands Bar, provides important clarity and ensures equitable access to both vocational and permanent training across the legal profession.

19. Significant developments in your country in 2025, if any, related to digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, procedural rules, access to judgments online).

Problems and challenges, as well as positive developments in the area of digitalisation of justice area identified by your Bar in 2025 (for example, as regards missing consultations and involvement of the Bar by governmental authorities in relevant digital developments in the justice area, missing digital tools or access to such tools for lawyers, etc.).

Digitalisation: There is much attention for the consequences of digitalisation. Positive are political proposals for transparency of algorithms, mandatory impact analyses on fundamental rights, and strengthening supervision of the use of AI in the judiciary. At the same time, there are concerns about the lack of sufficient safeguards in the use of digital tools, which may hinder access to justice for vulnerable groups.

20. Significant developments in your country in 2025, if any, related to use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals) in your country in 2025.

21. Significant developments in your country in 2025, if any, related to geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization, in particular specific courts or chambers within courts to deal with fraud and corruption cases

Efficiency of the justice system

22. Significant developments in your country in 2025, if any, related to efficiency of justice system, including to the length of proceedings

Efficiency of procedures: Proposals have been made to accelerate objection and appeal procedures, particularly in the context of housing and infrastructure. At the same time, the committee for the rule of law review of election manifestos (established by the Netherlands Bar) warned that shortening deadlines must not lead to the loss of an effective legal remedy (Article 13 ECHR).

Other issues

23. Other issues and significant developments in your country in 2025 impacting access to justice

In its report, the committee for the rule of law review of election manifestos identified several rule of law trends:

- Increase in proposals that put the rule of law under pressure: In 2025, 11 out of 15 reviewed party manifestos contain at least one proposal that conflicts with the rule of law, especially in the area of asylum and migration. Proposals that categorically restrict access to justice for certain groups (such as asylum seekers) undermine a fundamental principle of the rule of law: the protection of minorities.
- People-centred government: There is a clear trend towards a more people-centred government, with proposals to legally anchor the 'right to make mistakes' and to improve compensation in cases of government failure. This aligns with the recommendations of the 2023 Dutch State Commission on the Rule of Law and is considered positive.
- Non-discrimination and equal treatment: Various proposals aim to strengthen the prohibition of discrimination and to improve the position of minority groups. At the same time, there are also proposals that could have discriminatory effects, which is concerning from a rule of law perspective.