

Page 10, I. A. (*Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)*)

As written in earlier contributions, the Dutch government announced plans to amend the appointment procedure for Supreme Court judges. On 18 December 2020, government submitted a legislative proposal on the constitutional revision to the Advisory Division of the Dutch Council of State. The advice from the Advisory Division (dated 7 April 2021 and published on 16 June 2022) recommended government to reconsider or amend the proposal. Thereupon, the government decided on 6 February 2023 to not proceed with the proposal. Please see the [letter](#) (in Dutch) in which the Dutch government announced the discontinuance of the proposal.

Page 10, I.A. (*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)*)

As written in last year's contribution, on 24 December 2021, the Dutch Supreme Court decided on two claims (submitted by the Procurator General at the Dutch Supreme Court) for the dismissal of a deputy judge. In 2023, the Dutch Supreme Court also decided on a claim (submitted by the Procurator General at the Dutch Supreme Court) for the dismissal of a deputy judge. Please refer to the judgment: HR 24 February 2023 ([ECLI:NL:HR:2023:328](#)).

In November 2023 a new law was published that changed several other laws to enable judges, after reaching the statutory retirement age of seventy years, to continue to be employed as deputy judge until the first day of the month following that in which the judge reaches the age of seventy-three years. This possibility was already provided for by law, but that law (which also included COVID-19 measures) expired in 2023. Please refer to [Staatsblad 2023, 410 | Overheid.nl > Officiële bekendmakingen \(officielebekendmakingen.nl\)](#)

Page 11, I.A. (*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)*)

As written in earlier contributions, the Dutch government drafted a legislative proposal to change several laws to safeguard the independence and integrity of judges and judicial officers. A debate on this topic in the Dutch House of Representatives is scheduled for 18 March 2024: [Wijziging van de Wet op de rechterlijke organisatie, de Wet rechtspositie rechterlijke ambtenaren, de Wet op de Raad van State en enige andere wetten in verband met enkele wijzigingen in het belang van integere, onafhankelijke en onpartijdige rechtspraak, alsmede de regeling van enige andere onderwerpen | Tweede Kamer der Staten-Generaal](#).

Page 11, I.A. (*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)*)

On 7 July 2023, the Dutch Supreme Court decided on a claim (submitted by the Prosecutor General at the Dutch Supreme Court) to impose the disciplinary measure of a written reprimand as referred to in Section 46o of the Judicial Organisation Act, pursuant to Section 46ca, subsection 1, opening words and under a, of the Judicial Organisation Act, on the grounds of Section 46c, opening words and under c, of the Judicial Organisation Act (inflicting serious prejudice to the good course of affairs

of the judiciary or the confidence to be placed in the judiciary). Please refer to the judgment:
[ECli:NL:HR:2023:1019](#).

Page 11, I.A. (*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*)).

On 13 June 2023 the Dutch outgoing Minister for Legal Protection (in Dutch: minister voor Rechtsbescherming), and the Dutch Society for the Judiciary ([Nederlandse Vereniging voor Rechtspraak](#)) signed a new Collective Labour Agreement for the Judiciary (judges and prosecutors) for the period 2022-2024: [Arbeidsvoorwaardenovereenkomst sector Rechterlijke Macht 2022-2024](#)).

Page 11, I.B. (*Accessibility of courts (e.g. court/legal fees, legal aid, language)*)).

With regard to access to justice, the Dutch outgoing Minister for Legal Protection (in Dutch: minister voor Rechtsbescherming) adopted measures to reduce Dutch court fees with approximately 13,5% in the field of administrative law and civil law as per 1 January 2024. Please refer to the letter of the Dutch outgoing Minister for Legal Protection to the Dutch House of Representatives: [Kamerbrief over verlaging van de griffierechten | Kamerstuk | Rijksoverheid.nl](#).

Furthermore, the Dutch outgoing Minister for Legal Protection (in Dutch: minister voor Rechtsbescherming) compensated legal aid providers, such as lawyers and mediators, for increased cost due to high inflation in recent years. The compensation is a one-off subsidy: [Minister Weerwind compenseert rechtsbijstandverleners voor hoge inflatie met € 26 miljoen | Nieuwsbericht | Rijksoverheid.nl](#).

In the Caribbean part of the Netherlands, court houses were established on Saint-Eustatius (opening: 17 November 2023) and Saba (opening: 30 November 2023). Please see the Dutch NOS Journaal (provided by the Dutch public broadcaster) of 26 December 2023 regarding the Saba court house:



NOS Journaal 26
December 2023.mov

Page 12, I.B. (*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)*)).

The Dutch Supreme Court publishes nearly all of its judgments on the website of the Dutch judiciary ([www.rechtspraak.nl](#), open access) and news items on judgments ([www.hogeraad.nl](#), open access). A project is going on in which, gradually, judgments are published ([www.rechtspraak.nl](#)) that were handed down before the website [www.rechtspraak.nl](#) existed. On 10 October 2023 the 1000th judgment was published within this project. Please refer to the following new item on the website of the Dutch Supreme Court: [1000ste mijlpaalarrest gepubliceerd, vraag publicatie ongepubliceerd arrest hier aan - Hoge Raad](#)

In 2023, the digital proceedings facilities in civil law cases in which a preliminary ruling of the Dutch Supreme Court is requested, were further developed, and the required regulations for these cases were prepared. Please refer for information on the digital proceedings facilities of the Dutch Supreme Court: [Digitaal procederen bij de Hoge Raad - Hoge Raad](#)

Page 17, III.C. (Other).

In the so-called annual Kees Lunshoflezing the president of the Supreme Court addressed the topic of free news gathering and independent judgments of the judiciary as pillars of the rule of law ([Nieuwspoort website](#) and [President Dineke de Groot houdt jaarlijkse Lunshoflezing - Hoge Raad](#)).

Page 18, IV.A. (Regime for constitutional review of laws).

As written in our contribution of last year, the Dutch government is exploring a change of article 120 of the Constitution, which currently prevents the Dutch courts from reviewing the compatibility of acts of parliament and treaties with the Constitution (Grondwet). In 2023 this topic was discussed in for instance a committee debate of Parliament (in Dutch: commissiedebat) on 19 April 2023. Please refer to [Constitutionele toetsing | Tweede Kamer der Staten-Generaal](#). Subsequently, on 24 May 2023 the topic was addressed during a debate in Parliament: [Constitutionele toetsing](#).

Page 19, IV.C. (Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)).

The annual report of the Dutch Supreme Court regarding 2022, as published in 2023, includes a separate section on the law of the European Union. This section provides information on the application of article 267 TFEU by the Dutch Supreme Court in 2022. Please refer to: [Law of the European Union - Jaarverslag Hoge Raad](#).

In 2023, there were three cases in which the Dutch Supreme Court referred questions to the Court of Justice of the European Union:

- Dutch Supreme Court 10 February 2023 [ECLI:NL:HR:2023:187](#)
- Dutch Supreme Court 30 June 2023 [ECLI:NL:HR:2023:1006](#)
- Dutch Supreme Court 6 October 2023 [ECLI:NL:HR:2023:1371](#)

Page 20, IV.E. (Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives etc.)).

As written in last year's contribution, on 15 November 2022 the Dutch government established a State Commission on the rule of law (in Dutch: *Staatscommissie Rechtsstaat*). The Commission intends to provide its advice before 1 June 2024 ([Kabinet stelt Staatscommissie Rechtsstaat in | Nieuwsbericht | Rijksoverheid.nl](#)).

Page 20, IV.E. (Other)

On 31 August and 1 September 2023, the Constitutional Court of Belgium, the Constitutional Court of Luxembourg and the Supreme Court of the Netherlands in cooperation with the Court of Justice of the European Union organised the conference "EUnited in Diversity II: The Rule of Law and Constitutional Diversity" at the premises of the Supreme Court of The Netherlands in The Hague. This conference was a follow-up to the conference "EUnited in Diversity: between common constitutional traditions and national identities" which took place in Riga, Latvia, in September 2021.

Participants were presidents and members of the constitutional courts and supreme courts of European Union member states, the Court of Justice of the European Union and the European Court

of Human Rights.

The opening remarks were provided by the Commissioner for Justice of the European Commission, Didier Reynders, followed by keynote speeches of the President of the Court Justice of the European Union, Koen Lenaerts, the President of the European Court of Human Rights, Síoifra O'Leary, and the President of the Supreme Court of the Netherlands, Dineke de Groot. The discussions proceeded on the basis of four topics which focused on constitutional unity of law in the European Union and the freedom for national diversity. The topics were 1. 'Independence of the judiciary as a condition sine qua non for protecting democracy, mutual trust and the rule of law', 2. 'Primacy of EU law and equality before the law of EU citizens', 3. 'Diversity and uniformity in EU law' and 4. 'Legal protection of current and future generations'.

The continuation of EUnited in Diversity Conferences will be of high value for the judicial dialogue on the interpretation and application of the law of the European Union by the CJEU, the ECtHR and the national constitutional courts and supreme courts with constitutional task of the Member States of the European Union. The necessary funding to provide the organisation of follow up conferences is, however, occasional and not regulated.