



## FUNDAMENTAL RIGHTS AND THE RULE OF LAW

# **Report on the country visit to the Netherlands Authorities' observations on the report**

7-8 February 2024



European Economic  
and Social Committee

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Six EESC members took part in the visit to the Netherlands. The delegation met with several representatives of civil society, more specifically civil society organisations (CSOs), the social partners, the media and the legal professions, as well as the Dutch authorities. The aim of this report is to faithfully reflect and reproduce the views of civil society.

### **1. Fundamental rights of social partners**

Participants described the well-established **Dutch model of social dialogue**, building on the tripartite Economic and Social Committee (SER), the bilateral Labour Foundation (StdvA) at national level, collective bargaining at sectoral and company level, and the role of work councils at company level. They agreed that relations were very cordial in discussions between the government, employers' organisations and trade unions.

One participant explained that the absence of any reference to representativeness or independence criteria for unions in law made it easier for some employers to bypass the **right to form or join trade unions**. Unions were highly organised, very open to dialogue and mostly tended to turn to strikes only as a last resort. Some participants mentioned “yellow unions”, set up sporadically with money from employers to seal collective bargaining agreements.

Participants considered that the Dutch model of social dialogue has traditionally had good links with political decision-making, with past governments building on **social partners' agreements as a basis for law-making** and implementation. There was, however, a fear that this approach might be called into question in the country's new political landscape. Uncertainty about political follow-up on social dialogue agreements could disincentivise compromise amongst the social partners. The social partners tended to have more similar views amongst themselves on the need for migrant workers to plug the gaps caused by labour shortages than they had with the rest of society and the political class.

Social dialogue had not escaped the trend towards **rising tensions in society**, there being increased division within the different social partners' groups memberships in between dialogue-oriented views and the uncompromising ones. A slight rise in social conflict in the country had been attributed to actions to seek compensation for loss of buying power, notably due to inflation. References were also made to a general feeling in the population, in particular amongst the middle class, that there had been

progressive erosion of Dutch social standards, with fewer options for stability in life in many spheres, including employment, housing and health.

One participant considered that the Netherlands might be considered a testing ground for new forms of **flexible work** in Europe. In that connection, the question of labour rights coverage for the large number of self-employed people was considered crucial, with the social partners present at the meeting agreeing on the need to avoid creating a less-protected sub-category in between employers and workers. The Dutch authorities indicated that they are currently working on labour market reforms. Another participant believed that platform workers and other vulnerable workers such as migrants were deemed to be more likely to be victims of discrimination or intimidation for being part of a trade union – a tendency which was thought to be overall on the rise. That participant felt that some platforms had engaged in an anti-union discourse to discourage workers from opting in to coverage by a judicial decision on their status.

## **2. Freedom of association and freedom of assembly**

For a country with a strong tradition of respecting freedom of association and assembly, according to one participant, the Netherlands' **Public Assemblies Act** contained provisions that did not meet international standards. According to the participant, the act allowed for restrictions on assemblies based on traffic considerations, and it also made it possible to prosecute and punish peaceful protesters for merely failing to submit the required notification (in time) or for violating a prior restriction. It was believed that such provisions had a chilling effect, opening the door to unlawful threats of enforcement. The Dutch authorities clarified that, in practice, peaceful protesters were never punished without sufficient reasons, and never in itself for a late notification, for the failure to comply with prior restrictions, or for traffic considerations (provided they did not prevent circulation of emergency services).

Besides these legal considerations, the participant believed that the authorities – notably the local authorities in charge of authorising assemblies and maintaining security at them – and also the general public, did not have an adequate **understanding of freedom of assembly**. Based on insufficient regard for the presumption of peaceful intent, the authorities and the police would consider protests through the prism of risk rather than through one of rights, and would apply too low a threshold for restricting or banning protests. Other aspects of policing that were also criticised by several participants included the use of excessively violent methods such as water cannons and the rough manhandling of seated protesters, ID checks on protesters, and at least one proven case of human rights violation resulting from the use of biometric surveillance (face recognition).

Several participants underlined the more general inconsistency of approach to assemblies, notably in the face of new forms of action such as peaceful blockades. They gave the examples of the harsher treatment meted out to climate and housing protestors compared to that reserved for farmers, and the lack of protection provided to anti-racism protestors facing a hostile counter-demonstration. This, to their mind, illustrated a general trend towards **negative rhetoric** in the media and amongst politicians towards protestors defending such causes – for example, labelling climate protestors as terrorists. While participants believed that this ambient had a chilling effect on the freedom of assembly, they felt that, on the other hand, “uncivil” society was becoming better organised, as illustrated by the spread of anti-migrant narratives in society and protests against the opening of centres for asylum seekers.

According to participants, the growing distrust of civil society had also affected **freedom of association** in general. Increased questioning of the legitimacy of civil society organisations' (CSOs) actions had notably taken the form of repeated pressure for transparency. There was also a fear that a legislative proposal on the foreign funding of CSOs could be revived in Parliament following the European Commission's proposal on the Defence of Democracy package. In addition, a participant explained that some banks had implemented anti-terrorism legislation in an overzealous way, refusing to allow some Muslim CSOs to open bank accounts. The Dutch authorities explained that they were aiming for more transparency to address the phenomenon of non-illegal, but nevertheless problematic, foreign influence through funding.

It was also feared that the result of the 2023 general election and the overall drift towards the more conservative end of the political spectrum would affect the traditionally good access that CSOs had had to **consultations** with the government and with Parliament. One participant considered that a draft law aimed at restricting CSOs' abilities to conduct legal class actions had been an attempt to limit their action against the State in the area of climate responsibility. Access to funding was also considered at risk, with the prospect of a radical change to the traditional Dutch approach to development cooperation, which had until now provided staunch support for international solidarity and human rights defenders worldwide.

### **3. Freedom of expression and media freedom**

Despite the country's solid foundations in terms of freedom of expression and media freedom, participants called for vigilance in the face of trends that might at some point severely affect those freedoms. With its tradition for tolerance, the Netherlands was maybe not properly equipped to face **new challenges** such as misinformation and disinformation, or the spread of hate speech. One possible new trend referred to was that the authorities might be increasingly prepared to pay fines rather than grant access to information for some types of documents. While acknowledging the scale of disinformation and hate speech issues, the Dutch authorities pointed to the fact that they had been proactive in setting up a number of programmes tailored to civil servants, politicians and the general public, as well as cross-ministerial coordination and cooperation with local authorities and civil society on these questions.

One participant explained how **media pluralism** had been upset by digital changes and related funding difficulties. Online platforms had disrupted the traditional market for news by re-using news produced by the traditional media without fair remuneration, without employing journalists, and without having to respect the ethical guidelines that journalists had to follow. Such a trend would be further amplified by the mass rollout of generative artificial intelligence. Several participants referred to EU tools in this area, with high hopes that they might have a positive impact on media freedom at national level, notably the European Media Freedom Act and the Digital Services Act.

**Concentration of media ownership** was raised by several participants, notably with reference to the proposed takeover of the main Dutch broadcaster, RTL Nederland, by a Belgian media group. One participant remarked that market concentration was sometimes the only way to save some media outlets that were in difficulty (for example while undergoing the digital transition) and therefore did not always mean a reduction in pluralism. As far as a media regulation was concerned, another participant pointed out that the Netherlands was a rare case in Europe where the government could suspend a decision made by the independent media authority – a situation which undermined its autonomy of action. The Dutch

authorities indicated that they considered the creation of a framework to better measure media concentration to be part of their steps to implement the European Media Freedom Act.

One of the participants felt that the question as to how to generate revenue models to fund independent journalism in the **digital age** was a central issue. They called for greater consistency and a holistic approach here, given that the relationship between media and readership increasingly went through online platforms. Targeted online advertising was also considered to be a key issue, illustrated by the massive use thereof in the recent general election. Despite the ban imposed by the Digital Services Act on using sensitive data for such targeted ads, some political parties had managed to circumvent the ban by exploiting the supposed preferences of certain groups. The impact of online platforms on public debate was underlined, in particular the danger inherent in their unilateral capacity to amplify or tone down specific views.

Given some radical statements directed against the **Public Broadcasting System (PBS)** by the leader of the party that had gained the most seats in the 2023 general election, several participants underlined the need to protect the PBS from hostile decisions that could be made by means of a simple majority in Parliament. *Inter alia*, they called on the EU to step up its actions in this domain to promote a European model for stable public funding for public broadcasting services. One participant, however, observed that a balance was needed to cater for the interests of private media, which were not always able to compete with subsidised public broadcasting services.

The difficult **labour situation of journalists** was deemed to be another consequence of the shrinking amount of money being made available for the production of news. Participants agreed that the increasingly precarious nature of this type of work constituted a threat to media freedom and that safe, stable contracts were one of the most solid types of investment that could be made in quality journalism. Some participants feared that the political landscape that had emerged from the 2023 general election could lead to the “normalisation” of hostile attitudes towards journalists – given the insults made by the leader of the party which had gained the most seats. Others believed that such stigmatisation endangered journalists, who were facing increasing verbal and physical threats, forcing some of them to take action such as removing the logo of their media outlet from their vans in order to avoid being targeted.

Strategic lawsuits against public participation (SLAPPs) were not considered to be a widespread phenomenon in the Netherlands, but more data needed to be collected, *inter alia* to identify a potential impact on CSOs. According to participants, there were other forms of **legal intimidation of journalists** which had also had a chilling effect on their work. There was regret expressed at the fact that slander and defamation were offences under criminal law. One participant referred to transnational repression carried out by foreign states seeking to intimidate Dutch and other journalists covering topics in their spheres of interest from the Netherlands. They also mentioned the scandal provoked by the Public Prosecution Service's wiretapping of a newspaper investigating the face-mask crisis during the COVID pandemic. On a more positive note, the PersVeilig Platform that addressed threats against journalists was welcomed.

#### **4. The right to non-discrimination**

Participants described a **highly-developed system for reporting discrimination** at national and local levels, building on a network of ombuds-institutions in most municipalities, independent public

institutions, and a rich environment of CSOs active in all areas of discrimination. One participant explained that regular meetings took place in every region to bring together the public prosecutor dealing with discrimination, the police officer dealing with discrimination, and anti-discrimination support bodies. This helped with the prioritisation of – and follow-up to – discrimination cases. Despite these solid foundations, this participant explained that while around a fifth of the population had experienced discrimination, only a tiny percentage had lodged complaints. One participant advocated the introduction of specialised anti-discrimination inspectors in the police force, referring to examples in other EU Member States.

Some participants explained that there was proof of ethnic profiling by the police, including border police. The childcare benefits scandal was also referred to: tens of thousands of families (often with low incomes or from **ethnic minorities**) had been subjected to false allegations of fraud based on an algorithm among other factors, employed by the tax administration. Data also showed that people of various ethnic and religious origins faced discrimination in employment, including in internships. One participant, however, referred to one good practice in that domain: a programme set up by the Ministry of Education to prevent discrimination in internships. Another participant pointed out that members of ethnic and religious minorities felt that, despite a solid legal framework for reporting discrimination, they were still marginalised in society because of the persistence of discriminatory attitudes in politics and society, exacerbated by the rise of a nativist discourse.

Several participants described an increase in **hate speech**, including anti-Semitic and anti-Muslim rhetoric, and a polarisation of society on questions relating to ethnic and religious minorities, which had appeared even before the current conflict in the Middle East began. Members of both Jewish and Muslim communities feared for their safety, with – for example – members of the Jewish community being afraid to wear religious symbols in public. In a country with a strong tradition of freedom of speech, it was regrettable that the Netherlands did not yet have a law to combat hate speech and hate crime. On the other hand, participants underlined good practice in education, referring to work of the Slavery History Dialogue Group and school programmes on the history of the Jewish community, including the Holocaust.

Despite the overall positive situation for **women** in Dutch society, one participant underlined the multiple forms of discrimination that could affect them, in particular women of different ethnic or religious backgrounds, and especially Muslim women. The participant regretted that the regulation on domestic work in the Netherlands did not provide labour rights to workers working less than four days in a private household. It was also underlined that despite adequate laws, the fight against domestic violence suffered from a lack of expertise and trained personal in the police and justice. However, one good practice mentioned was the existence of a prosecutor specialising in gender violence in one of the largest cities in the Netherlands; it was hoped that this practice would be expanded. The participants did regret the absence of mandatory gender mainstreaming in Dutch law-making. The Dutch authorities acknowledged the challenge of addressing the economic marginalisation of women, pointing to new legislation facilitating payroll transparency in companies and laying down quotas for women on company boards.

Although it had been the first country in the world to allow marriage for same sex couples, the Netherlands no longer appeared to be much of a frontrunner in protecting the rights of **LGBTIQ+ people**, according to one participant. They explained that, for the first time in two decades, acceptance

of LGBTIQ+ people in Dutch society was no longer progressing, and had even regressed slightly. The participant considered it a warning sign that most political parties in the negotiations on a possible government coalition did not adhere to the Rainbow Ballot Box Agreement on LGBTIQ+ rights, illustrating a more general loss of support for the cause in the political parties represented in Parliament. More widely, LGBTIQ+ people, and in particular trans people, were being increasingly targeted by hate speech online and in the press. Seven out of ten LGBTIQ+ people had experienced verbal or physical threats – but reporting was low and only a few perpetrators were sentenced every year. Another participant expressed regret at the fact that Dutch criminal law on group insults contained no grounds referring to gender – thus limiting the protection offered to trans and intersex people in particular. Underlining the importance of awareness-raising, participants referred to the good example of “Purple Fridays” devoted to the acceptance of LGBTIQ+ students.

One participant explained that **people with disabilities** were the second-largest group reporting discrimination to the relevant national and local bodies. Commenting on the fact that responsibility for providing care for people with disabilities had been assigned to local government, the participant observed that this was leading to discrepancies between regions in the Netherlands. They expressed regret at the absence of a solid programme for inclusive education in the country, which to their view could leave thousands of children with disabilities out of the education system. The point was made that people with disabilities were amongst the millions of people marginalised by overreliance on digital channels for communication in the area of banking and administration. One positive trend was welcomed, namely improvements made in the area of accessible voting for people with disabilities, contributing to better political representation. The creation of accessible ways for people with disabilities to use emergency numbers was also underlined.

## 5. The rule of law

Several participants underlined their appreciation of the EU rule of law review mechanism, which acted as a catalyst for debates at national level and in relation with the EU. Participants in this session expressed fears that the strong **rule of law culture** established in the Netherlands might fade away, given the political direction that the country was taking after the 2023 general election. It was explained that several anti-constitutional measures (notably in the area of migration policy) had appeared in the manifestos of the political parties that were in the negotiations on a possible future government coalition. In a country normally characterised by the self-restraint of the executive in its relations with the judiciary, the point was made that the appointment of judges ultimately depended on the executive and legislative arms of government, and this called for caution regarding possible future attempts by politicians to influence the judiciary. The setting of minimum thresholds for penalties in law was mentioned as another example of politicians’ restrictions on judges’ autonomy. It was also regretted that some politicians tended to comment on judicial decisions.

Several participants underlined the fact that the **quality of justice** had been severely affected by the disproportionate workload faced by judges and other judicial personal. This was the result of sizeable budgetary cuts in recent years, which had led to a shortage of judiciary staff; this in turn had had an impact on the time and attention devoted to cases. It was felt that the judiciary was facing a generational challenge, with difficulties in recruiting new judges to compensate for an aging judicial profession. Participants believed that alternative mechanisms like mediation or “agreements for the sake of judicial economy” (when the public prosecutor and the defence agreed on a joint proposal to submit to the judge

in order to settle a criminal case) could marginally reduce the backlog of cases, but that the general approach to justice should never affect the right to legal remedy. As far as administrative justice was concerned, one participant remarked that the childcare benefits scandal had led to jurisprudence reinforcing the necessity and proportionality assessments in administrative matters.

Several participants considered that the polarisation of society had led to an increase in **pressure on judges and lawyers**. A rhetoric was growing which associated lawyers with their clients' alleged crimes, for example associating them with organised crime or the so-called "asylum industry". Participants explained that threats were multiplying on- and off-line, from third parties and also sometimes from lawyers' clients, and that this could on occasion lead to physical attacks (a lawyer was murdered in 2019). Lawyers and judges expected more action by the authorities to ensure their protection and raise awareness about their roles.

Participants also hoped for better guarantees to be offered on **access to justice**. One participant explained that funds for legal aid depended on political arbitration carried out annually on the budget allocated to justice matters. A long-term plan was called for to secure an adequate level of funding for legal aid over several years. It was acknowledged that there had been a previous re-evaluation of funding for legal aid, but it was also felt that this increase had already been cancelled out by inflation. One participant observed that legal aid also needed to be extended to cover administrative procedures and the preliminary phases before the opening of a court case – given that the lack of legal aid in the childcare benefits scandal had also contributed to the scale of its impact. One participant expressed regret at the fact that the confidentiality of lawyer-client contacts had been under pressure because of developments in the working methods of the Public Prosecution Service, which tended to infringe on the principle of confidentiality in the conduct of investigations. It was also pointed out that prisoners' contacts with the outside world, including with their lawyers, had become very strictly limited in high security prisons. The Dutch authorities noted that the confidentiality of lawyer-client contacts would be one of the aspects examined in an upcoming review of the criminal procedure code.

One participant considered that, despite the **Open Government Act**, there was still too much of a delay in accessing documents, sometimes because of bureaucratic slowness, but sometimes also because of a supposed culture of secrecy. The Dutch authorities explained that they were aware of this issue and that the lack of public confidence that this had created had been identified in independent audits. They pointed to a number of measures taken to address the issue and promote a genuine open government culture, including targeted training for civil servants.

One participant observed that the Netherlands had recently reached its lowest ever score in the **Corruption Perceptions Index**, which denoted a worrying trend. It was felt that the Netherlands was lagging behind its neighbours as regards lobbying transparency and interest representation. The Dutch authorities announced that they were reviewing their tools for the transparency of interest representation in the context of the European discussions on the Defence of Democracy package. Another participant acknowledged that the EU "Whistle-blowers" Directive had been transposed into national law, but called for more action to increase socio-psychological and financial support for whistle-blowers and to prevent retaliation against whistle-blowers in companies. The participant also expressed regret at the fact that the Netherlands had not done enough to reduce the risk of money laundering, notably in the area of transparency regarding ultimate beneficial owners. Yet another participant expressed regret at the lack of investigations into the potential involvement of Dutch companies in corruption abroad. The Dutch

authorities announced that the dedicated corruption investigation team of the Fiscal Intelligence and Investigation Service had recently been doubled in size.

**Authorities' observations on the report on the visit to  
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## **Observations from the Dutch authorities on the report of the ad hoc Fundamental Rights and Rule of Law Group of the European Economic and Social Committee on the country visit to the Netherlands**

We would like to thank the ad hoc group on Fundamental Rights and the Rule of Law (FRRL Group) of the European Economic and Social Committee (EESC) for the valuable time and effort they put into visiting the Netherlands. The EESC's FRRL Group provides an important forum for European civil society organisations to meet and share their assessment on the state of fundamental rights and the rule of law. The topics covered during the visit are essential for a well-functioning society and the well-being of its citizens. These rights cannot be taken for granted and should therefore be the subject of a continuous dialogue.

A large number of aspects related to the five main topics are covered in the report. We wish to particularly reflect on the following topics mentioned in the report.

### **Fundamental rights of social partners**

A strong social dialogue with solid social partners is of great importance. The Dutch 'polder-model' has a longstanding tradition and is strongly developed whereby social partners work together and with the government in the socio-economic field. This ensures more stable labour relations and socio-economic development. Overall, the Dutch government (Ministry of Social Affairs and Employment) recognises and gives attention to the challenges regarding the fundamental rights of the social partners presented in the report of the EESC's FRRL Group.

### **Freedom of association and freedom of assembly**

The Netherlands' Public Assemblies Act provides possibilities to restrict **the right to demonstrate**. However, the government acknowledges that, given the importance of the right to demonstrate as a fundamental right, the main objective is to facilitate assemblies: prohibiting or ending a demonstration is considered an absolute last resort. For each demonstration, the specific circumstances of the case are weighed up in order to make the right decisions that ultimately leads to a peaceful assembly. In this respect, it has been proven to be hard, if not sometimes impossible, for local authorities to facilitate demonstrations in an appropriate manner when the assembly does not follow the general procedural rules that are prescribed by the Public Assemblies Act in order to ensure the safety of participants and others. Still, the right to demonstrate requires careful consideration by local authorities in each specific case: the decision to restrict or even prohibit or end an assembly should never be taken lightly. In its letters of July and December 2023, the government provides a comprehensive response to the criticisms regarding, amongst other aspects, the evaluation of the Public Assemblies Act and the use of ID-checks during demonstrations<sup>1</sup>.

### **Freedom of expression and media freedom**

Journalists should be able to do their work **without the fear of intimidation**. The government has therefore stepped up efforts to protect journalists. Besides the *PersVeilig* platform mentioned in the report, another example thereof is legislation criminalising 'doxing'. It entered into force on 1 January 2024. With this law, the use of personal data for intimidating purposes is made punishable. It not only

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<sup>1</sup> Kamerstukken II 2022/23, 34 324, No 9 and Kamerstukken II 2023/24, 34 324, No 11.

criminalises the doxing of journalists, but of all citizens. The law provides for higher possible penalties for the doxing of specific professionals, such as journalists. The report mentions the Public Prosecution Service's wiretapping of a newspaper investigating the face-mask crisis during the COVID-19 pandemic. In the case at hand, the suspects were being wiretapped when journalists were present. The Public Prosecution Services has taken the incident very seriously and attaches great importance to press freedom and the right of protection of journalistic sources. It is currently reviewing its policies to assess whether these need to be improved.

### **The right to non-discrimination**

The Dutch government (Ministry of the Interior and Kingdom Relations) is working on increasing the visibility and accessibility of the **anti-discrimination agencies**. In January 2024, the anti-discrimination agencies started operating under the same name – *Discriminatie.nl* – and launched a campaign with a new website ([www.discriminatie.nl](http://www.discriminatie.nl)) and a freephone number (0800-0880). The government is preparing new legislation to strengthen the structure, financing and tasks of the anti-discrimination agencies. An outline will be available in the summer of 2024.

In addition, in January 2021, the Dutch police started a pilot project called the Expertise Centre for Tackling Discrimination-Police (*Expertise Centrum Aanpak Discriminatie-Politie*) (ECAD-P). In this pilot, national expertise will be developed to **strengthen the role of the police in the (criminal-law) approach to discrimination in society**. 'Discrimination officers' are part of this pilot. ECAD-P provides various forms of expertise to the police organisation. First of all, they provide operational support for handling discrimination cases and help the regional police forces to recognise and deal with reports. In addition, ECAD-P screens all registrations of reports in the police systems that contain keywords that may indicate a report of discrimination. ECAD-P is also committed to improving cooperation with, for example, the anti-discrimination facilities at municipalities.

There is great social outrage about **ethnic profiling** as a form of discrimination on the basis of race and nationality. Preventing and combating discrimination has the full attention of the government. In response to the Supreme Court's ruling on the use of race and ethnicity in selection decisions in certain procedures of the Royal Military Police (KMar) regarding border security, the KMar has adjusted its working methods. The police have also looked, on their own initiative, at how lessons can be learned from the ruling and have therefore adjusted their working methods.

The government regrets that members of both Jewish and Muslim communities indicate that they fear for their safety. Every form of **hate speech and hate crime** is unacceptable. Jewish and Muslim communities as well as all other groups in our society should be able to live without fear. Contrary to what is stated in the report, there are laws to combat hate speech and hate crime in the Netherlands. Hate crime and hate speech are punishable by law through a number of legal provisions, such as Articles 137c and d of the Dutch Penal Code, supplemented by the Public Prosecutor's guidelines for criminal proceedings. There is currently a bill in parliament that further makes the criminalisation of these offences more explicit. Nevertheless, the emphasis is on preventive measures to combat hate speech and hate crime effectively with criminal law as a measure of last resort.

In addition, the government is committed to safeguarding the rights of **LGBTIQ+ people**. The terminology 'hetero- or homosexual orientation' in the General Equal Treatment Act (Awgb) and the Criminal Code (WvSr) will be changed to 'sexual orientation'. This is stated in the bill that was sent to the House of Representatives by the government in February this year. The Awgb offers protection to

people who are discriminated against. This amendment brings the Awgb and the WvSr into line with an earlier amendment to Article 1 of the Constitution. The WvSr is also being amended to add that discrimination on the basis of gender also includes discrimination on the basis of sexual characteristics, gender identity and gender expression. This is already stated in the Awgb and the WvSr is now being brought into line with this.

In the Netherlands, 2.4 million children and young people go to school every day (about 99.6% of all young people subject to compulsory education and qualification). They do so to learn and to meet each other. For more than ten thousand children, unfortunately, this does not apply. They do not go to school for a short or longer period for various reasons<sup>2</sup>. The reasons for not going to school are very diverse, sometimes the education is not suitable for the person, or something is going on in the young person's life. **Education** in the Netherlands is becoming more inclusive. Together with a wide variety of partners, the government has established a vision for inclusive education in 2035. This vision is currently being developed and made more tangible. Furthermore, the government is taking steps to encourage pioneers to get started.

### **The rule of law**

The report mentions that the **quality of justice** is threatened by the disproportionate workload faced by judges and other judicial personnel as a result of budget cuts in recent years. There have not been budget cuts in recent years. Around ten years ago there were sizeable budgetary cuts, which at that time led to a shortage of judicial staff. As from 2023, the judiciary receives structural extra finance of EUR 155 million a year and 130-140 new candidate-judges are being trained to become a judge. In addition, in order to improve the working conditions of the judiciary and public prosecutors, an independent expert was appointed to propose recommendations. The expert organised several thematic sessions to which relevant stakeholders were invited. The thematic sessions touched upon topics such as how to increase the number of judges and judicial/supporting personnel, as well as innovation, working methods and digitalisation. The recommendations will be published this spring.

**Access to justice** not only strengthens the rule of law, but it also builds trust of citizens and businesses in the government. Therefore, it stands as one of the key priorities of the Dutch government to ensure and strengthen access to justice. The Dutch government considers access to justice to be broader than access to the courts. It encompasses access to information, access to advice and legal support, and access to a decision from a neutral body, such as a court. The government's commitment is reflected in the national plan to strengthen access to justice presented to parliament in June 2023. The national plan includes ongoing efforts such as the national programme to renew the government-funded legal aid system as well as new measures to encourage the use of alternative dispute resolution and restorative justice, and measures to strengthen access to the courts.

Furthermore, the government greatly values **openness and transparency**. Granting access to information, proactively and upon request, is an important cornerstone of its policy. As from 2022, the government actively monitors in the Annual Report on Operational Management (*Jaarrapportage Bedrijfsvoering Rijk*) how many information requests under the Open Government Act (since 1 May 2022) were received by each ministry and whether they were processed within the statutory deadlines<sup>3</sup>. The 2022 report shows, as the report of the EESC's FRRL Group also states, that increasing

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<sup>2</sup> *Kamerstukken II*, 2021/22, 26 695, No 138.

<sup>3</sup> *Kamerstukken II*, 2022/23, 31 490, No 328.

penalty payments are being made by administrative bodies because of delays in processing information requests under the Open Government Act<sup>4</sup>. On a quarterly basis, data on penalty payments due to delays in processing requests are published<sup>5</sup>. However, the government does not recognise a trend of preferring to pay fines rather than act within statutory deadlines, but rather a situation of overload and administrative challenges.

The government is currently taking steps to address these challenges and accelerate the processing of requests. Towards this end, pilot projects were conducted in 2023 with the goal of gaining insight into what measures contribute to faster and better processing of information requests<sup>6</sup>. Furthermore, an implementation review (*invoeringstoets*) on the Open Government Act was conducted<sup>7</sup>. The review identified challenges faced by citizens, journalists and administrative bodies regarding the Act, as well as best practices. In addition, the external research agency formulated several recommendations on the identified challenges. Following the publication of the implementation review, a response by the Cabinet will follow in 2024 on measures to improve the implementation and enforceability of the Open Government Act. One of the goals of the measures to be announced is to ensure that requests are processed within the statutory deadlines.

As also stated in the report of the EESC's FRRL Group, the government is taking several measures to encourage an open government culture. For example, the oath of office for civil servants has been revised after 25 years. The new oath emphasises serving society and taking responsibility for an open government<sup>8</sup>. Moreover, the government has a programme that provides civil servants with practical tools and inspiring examples to put into practice the values of openness and transparency within an open government<sup>9</sup>. This contributes to a more trusted and open government.

During the EESC session, a participant called for more action to increase social-psychological and financial support for **whistleblowers**. It should be noted that since 1 September 2022, free psychosocial support for whistleblowers has been available from Victim Support Netherlands (*Slachtofferhulp Nederland*) after referral by the Whistleblowers Authority (*Huis voor klokkenluiders*). As of 1 February 2024, free legal assistance and/or mediation will be available for whistleblowers who require assistance due to a report of suspected wrongdoing. After referral by the Whistleblowers Authority, a whistleblower is assigned a lawyer or mediator through the Legal Aid Board (*Raad voor Rechtsbijstand*). Experiences with these facilities are evaluated to adjust the offering if necessary. The intention is that a broad range of support will ultimately be available to the whistleblower.

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<sup>4</sup> From *Jaarrapportage Bedrijfsvoering Rijk 2022* (p. 68-69), available at: <https://open.overheid.nl/documenten/ronl-b46def6afb3da457fe5330739244a42c8126a324/pdf>.

<sup>5</sup> *Kamerstukken II*, 2023/24, 32 802, No 82.

<sup>6</sup> *Kamerstukken II*, 2023/24, 32 802, No 80.

<sup>7</sup> *Kamerstukken II*, 2023/24, 32 802, No 80.

<sup>8</sup> See the news item (in Dutch) at <https://www.rijksoverheid.nl/actueel/nieuws/2023/01/20/ambtseed-rijsambtenaren-wijzigt-meer-nadruk-op-werken-in-het-algemeen-belang-voor-onze-samenleving> and the official letter to Parliament in this matter (*Kamerstukken II* 2022/23, 29 362, No 320).

<sup>9</sup> See the website of the programme (in Dutch): <https://www.grenzeloossamenwerken.nl/ambtelijk-vakmanschap/gids-ambtelijk-vakmanschap/werken-vanuit-vertrouwen>.



## European Economic and Social Committee

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