

## COUNTRY REPORT 2026 - THE NETHERLANDS BAR

In the past year the Netherlands Bar focused on various issues, of which the most significant are highlighted below.

### Justice system and judicial Independence

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.

### Rule of law developments

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.

### Resilience and safety

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.

### Deficiencies in legislative consultation and transparency

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.

### Safeguarding lawyer-client confidentiality

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.

### Access to digital devices for lawyers in prisons

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.

#### **ICT outage in Netherlands Public Prosecution Service**

In the summer of 2025, the Netherlands Public 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.

#### **Non-publication of country-of-origin reports in asylum procedures**

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.

#### **Responsible use of AI in the legal profession**

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.

### Government funded legal aid and access to justice

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.

### Vocational training

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.

### 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.

### Growth of the Netherlands Bar in 2025 per 01-01-2026 vs. 01-01-2025

	2025	2026	Growth (number)	Growth (%)
Amsterdam	6.670	6.788	118	1,77%
Den Haag	1.996	1.999	3	0,15%
Gelderland	1.189	1.216	27	2,27%
Limburg	711	732	21	2,95%
Midden-Nederland	1.779	1.827	48	2,70%
Noord-Holland	801	825	24	3,00%
Noord-Nederland	755	772	17	2,25%
Oost-Brabant	1.188	1.194	6	0,51%
Overijssel	642	648	6	0,93%
Rotterdam	2.019	2.071	52	2,58%
Zeeland-West-Brabant	973	974	1	0,10%
	<b>18.723</b>	<b>19.046</b>	323	1,73%