

Questionnaire for civil society and bar associations

1. Taking into consideration the guarantees for the functioning of lawyers, contained in principles 16-22 of the [Basic Principles on the Role of Lawyers](#), please describe the constitutional, legal, administrative and policy measures adopted in your country to enable lawyers to exercise their professional activities in favour of their clients in a free and independent manner.

In the Netherlands, the independent role of the lawyer is established by law (Act on Advocates, article 10A). Moreover, the role of the lawyer is strongly embedded in the Dutch rule of law. Supervision of the legal profession is organized independently of the government, by the legal profession itself. In addition, Dutch lawyers are subject to disciplinary law. The Netherlands Bar draws up regulations and rules for the legal profession (for example the Legal Profession Bye-Law and Legal Profession Regulations) including codes of conduct.

2. What entities and/or mechanisms are in place to prevent and/or punish interferences with the free and independent exercise of the legal profession? Please briefly describe them and specify whether they are independent bodies or if they belong to the administrative structure of the State.

A strong positioning and performance of the Netherlands Bar is in place. The Netherlands Bar is an organization completely independent of the Dutch government.

3. Please indicate if there are any legislative, administrative, or institutional barriers that have hindered the work of lawyers and the exercise of the legal profession in your country, and describe them.

The Dutch system of funded legal aid is not working properly, due to the fact that lawyers are not adequately remunerated. The Ministry of Justice and Security is responsible for organizing funded legal aid. Although during last Budget Day, the Dutch government announced that in 2022 it will invest 154 million Euros in funded legal aid, the Netherlands Bar considers it essential that litigants are also assured of good legal protection after 2022. The Netherlands Bar is committed to achieve this goal.

4. Please describe the role of the national bar association(s) in protecting lawyers and the free exercise of the legal profession. Is the bar association de jure and de facto independent from the State?

The Netherlands Bar is the professional organization of the legal profession and independent of the Dutch government. The Netherlands Bar is very much involved in the representation of the interests of the profession, the accompanying privileges and in remaining independent of the government. Moreover, the Netherlands Bar initiated a program this year to increase the resilience of lawyers, for example by offering safety scans, trainings on resilience for lawyers and by setting up a special Taskforce in this respect. Attention to this subject is also paid to in the vocational training for junior lawyers.

5. Please provide detailed information on the number of lawyers that have been subject to criminal, administrative or disciplinary proceedings in the last five years for alleged violations of standards of professional conduct. How many of them were found guilty? How many of them were ultimately disbarred?

Year	2020	2019	2018	2017	2016
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Inflow of complaints to local bar presidents (a)	2726	2576	2301	2245	2293
Inflow of cases before the disciplinary committees (b)	993	846	1004	1020	998
Number of well-founded statements disciplinary committees (b)	258	292	261	290	290
Inflow of cases before the disciplinary court (b)	326	357	369	357	337
Number of well-founded statements before the disciplinary court (b)	104	80	79	71	89
Number of disbarred lawyers (c) and (d)	8	11	18	9	7

Sources

(a) = annual reports and working reports of the local bar presidents council covering individual years.

(b) = annual reports disciplinary court covering individual years.

(c) = annual reports Netherlands Bar 2020, 2019 and 2018

(d) = list of disbarred and suspended lawyers (website Netherlands Bar) 2017 and 2016

Convictions outside the scope of disciplinary law are not systematically reported in general and therefore not registered. When it comes to the professional standard, the local bar president (for the time being) always enforces disciplinary action.

6. Please provide information on any case where lawyers in your country have been subject to intimidation, hindrance, harassment or improper interference, whether from State authorities or non-State actors, for action taken in accordance with their recognized professional duties. Please also describe the measures that State authorities have taken to investigate and bring perpetrators to justice.

A typical example in the Netherlands is the intimidation of lawyers representing flight MH17 surviving relatives who contributed their reports about the air disaster in court as part of their right to speak. The lawyers involved were more visible during that part of the case and some of them would have been followed to their private home as a result. The number of threats against lawyers by reason of their practice of the profession seems to increase. The Netherlands Bar opened a hotline for threatened lawyers after which the Netherlands Public Prosecution Service amongst others will take action.

7. What activities does your organization carry out to promote the independence of the legal profession? Do you co-ordinate with other organizations with similar functions in other countries or regions? Are you part of a network for this purpose? Please give examples.
8. To what extent has, the legislation and/or measures adopted in your country because of the Covid-19 pandemic, affected the exercise of the independence of the legal profession or security of lawyers. Please explain.

A strong lobby, the vocational training for junior lawyers and the permanent education of more senior lawyers, are examples of activities the Netherlands Bar carries out to promote the independence of the legal profession. Internationally, this is promoted via the CCBE and IBA of which the Netherlands Bar is member.

Because of certain measures, it has become more challenging for lawyers and their clients to be in contact in person. This is not the preferred situation according to the Netherlands Bar; it may impact the freedom of lawyers to do their work properly.

9. Please describe the measures and policies you would suggest to better protect and guarantee the free exercise of the legal profession.
- Strengthening of the system of norms and values for and about lawyers;
 - Strengthening the importance of the rule of law and of the different actors in that rule of law;
 - Acting together with other parties in the rule of law and in international context;
 - Actively respond to each attempt to break into the competences and privileges of lawyers.