

Franet National contribution to the Fundamental Rights Report 2024

The Netherlands

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Contents

1. Impact of the cost-of-living crisis and rising poverty in the EU	3
1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.	3
1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.	6
2. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression	16
2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.....	16
2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.	26

1. Impact of the cost-of-living crisis and rising poverty in the EU

1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

In 2022 the government launched the multi-year Approach to Financial Problems, Poverty and Debt.¹ This approach aims to halve the number of children growing up in poverty by 2025 compared to 2015, halve the total number of people in poverty, and halve the number of households in problematic debt by 2030 compared to 2015. This approach includes a wide range of legal and policy measures, some of them implemented in 2023. The first report on the implementation of this plan was sent to the House of Representatives in 2023.² The Netherlands Institute for Human Rights points out that the Approach plan mainly focuses on debt relief and child poverty, while these are only two of the many aspects that need to be addressed to fight poverty sustainably.³ Other relevant aspects, such as housing or health(care), are not part of this plan, but are tackled by other ministries. A more holistic approach to combatting poverty is needed according to the Institute.⁴

One of the measures of this Approach was an increase by 10.5% of the monthly minimum wage paid to employees who are at least 21 years old on 1 January 2023.⁵ The

¹ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2022), Approach to Money Problems, Poverty and Debt ([‘Aanpak geldzorgen, armoede en schulden’](#)), Letter to House of Representatives, 12 July 2022.

² The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), First progress report on the Approach to Money Problems, Poverty and Debts ([\(Eerste voortgangsrapportage Aanpak geldzorgen, armoede en schulden\)](#)).

³ The Netherlands, Netherlands Institute for Human Rights (2023), [Written submission to the 73rd Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights \(CESCR\) on behalf of the consideration of the seventh periodic report of the Netherlands. August 2023.](#)

⁴ The Netherlands, Netherlands Institute for Human Rights (2023), [Written submission to the 73rd Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights \(CESCR\) on behalf of the consideration of the seventh periodic report of the Netherlands. August 2023.](#)

⁵ The Netherlands, , Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2022), Decision of 3 October 2022 establishing the statutory minimum wage with effect from 1 January 1 2023 ([\(Besluit van 3 oktober 2022 tot vaststelling van het wettelijk minimumloon met ingang van 1 januari 2023\)](#)).

explanatory memorandum to the decision to increase the minimum wage indicates that high inflation in the first half of 2022 is the reason for the increase.⁶ The minimum monthly wage increased from € 1,756.20 to € 1,934.40 gross per month. An adjustment of the minimum wage takes place each six months. This time on top of the regular adjustment an additional increase of 8.05% was implemented. This is the first time since the legal minimum wage was introduced in 1969 that a special increase has been implemented. The rise in the minimum wage is accompanied by an increase in the social benefits linked to the minimum wage such as old-age pensions, the social assistance benefit (*bijstand*) and unemployment benefit. On 1 July 2023, the minimum wage paid to workers who are at least aged 21 years was adjusted by an increase from € 1,934.40 gross per month to € 1.995,00.⁷ On 1 January 2024⁸, the Minimum Hourly Wage Act (*Wet invoering minimumuurloon*)⁹ will take effect. As a result of this Act the minimum hourly wage will be the same regardless of the length of the working week. Currently, the minimum wage is set per month. In some collective agreements, the maximum working week is 40 hours and in others 36 hours. Since the new system is based on a 36-hour contract, the income of workers with a 38-hour contract will increase by 5.5%, while workers working 40 hours will be paid 11% more.

As part of the Approach to Money Problems, Poverty and Debt the government plans to introduce a one-off energy supplement (*energietoeslag*) of €1,300 for low-income households in 2023.¹⁰ The energy allowance is a measure to help households with additional energy costs in 2023. In 2022 such a measure was also implemented. On 21 September 2023, the bill for the Energy Allowance 2023 Act was passed by the House or

⁶ The Netherlands, , Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2022), Decision of 3 October 2022 establishing the statutory minimum wage with effect from 1 January 1 2023 ([Besluit van 3 oktober 2022 tot vaststelling van het wettelijk minimumloon met ingang van 1 januari 2023](#)).

⁷ The Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2022), Regulation of the Minister of Social Affairs and Employment of 17 April 2023, No. 2023-0000203905, adjusting the statutory minimum wage with effect from 1 July 2023 ([Regeling van de Minister van Sociale Zaken en Werkgelegenheid van 17 april 2023, nr. 2023-0000203905, tot aanpassing van het wettelijk minimumloon per 1 juli 2023](#)).

⁸ The Netherlands, , Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2023), Decree determining the date of entry into force of the minimum Hourly Wage Act ([Besluit tot vaststelling van het tijdstip van inwerkingtreding van de Wet invoering minimumuurloon](#)).

⁹ The Netherlands, , Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2023), Minimum Hourly Wage Act ([Wet invoering minimumuurloon](#)).

¹⁰ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), Bill for Energy Allowance 2023 Act ([Wetsvoorstel Energietoeslag 2023](#))

Representatives¹¹. On 3 October, it passed the Senate and it took effect on 5 October 2023.¹²

On 1 March 2023, an amendment to the Housing Act (*Woningwet*) took effect which aims to increase the affordability of social housing.¹³ Many tenants struggle to pay their housing costs each month. The amendment requires social housing associations to reduce the rent for rental housing in the regulated segment in 2023 (on their own initiative and at the tenant's request) and in 2024 (at the tenant's request) for households with an income of up to 120% of the minimum income and a prevailing rent above €575.03. The rent will be reduced to a maximum of €562.65 per month.

From 27 February to 28 March 2023, the draft bill for the Affordable Rent Act was open for internet consultation.¹⁴ In recent years, tenants in the private rental housing sector often pay top prices for substandard housing. With the Affordable Rent Act, the government wants to protect tenants, guarantee a fair rent and make rents affordable again for middle-income earners. The law aims to regulate residential rents from 2024 with a point system to assess the quality of homes and determine the maximum rent. These measures will reduce the rent of more than 300,000 homes by an average of €190 per month.¹⁵

¹¹ The Netherlands, House of Representatives (*Tweede Kamer*) (2023), Energy allowance 2023 Bill ([Energietoeslag 2023](#)), Webpage.

¹² The Netherlands, Senate (*Eerste Kamer*) (2023), Energy allowance 2023 Bill ([Energietoeslag 2023](#)), Webpage.

¹³ The Netherlands, Minister for Housing and Spatial Planning (*Minister voor Volkshuisvesting en Ruimtelijke Ordening*) (2023), Housing Act Amendment (2023 rent reduction for lower-income tenants) ([Wijzigingswet Woningwet \(huurverlaging 2023 voor huurders met lager inkomen\)](#)).

¹⁴ The Netherlands, Minister for Housing and Spatial Planning (*Minister voor Volkshuisvesting en Ruimtelijke Ordening*) (2023), Draft bill for the Affordable Rent Act ([Voorstel Wet betaalbare huur](#)).

¹⁵ The Netherlands, Minister for Housing and Spatial Planning (*Minister voor Volkshuisvesting en Ruimtelijke Ordening*) (2023), Explanatory memorandum to Draft bill Affordable Rent Act ([Memorie van Toelichting Wet betaalbare huur](#)).

1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

Government policy measures to improve benefits and income

People with a low income are entitled to a number of benefits (*toeslagen*). As part of the Approach to Financial Problems, Poverty and Debt, a number of these benefits were increased on 1 January 2023:¹⁶

- The health care benefit (*zorgtoeslag*) was increased with a maximum of € 43 per month for single persons and € 53 per month for couples.¹⁷
- The child budget (*kindgebonden budget*) was increased substantially.¹⁸ This benefit is a means-tested contribution towards the costs of children up to the age of 18. Parents receive this in addition to child benefit (*kinderbijslag*). The maximum amount that parents receive for the first child, second child and the additional amount for single parents was increased by € 356 per year. The maximum amount that parents receive for children from the third child onwards was increased by € 468 per year. The increase in the maximum amount for the third child onwards is permanent, the other increases are intended as a temporary measure to increase purchasing power in 2023.
- The indexation of the child care benefit (*kinderopvangtoeslag*) was raised by 5.58% on 1 January 2023.¹⁹ On 8 June 2023, this indexation was raised retrospectively to 7.32%, because the expected wage and price trend for 2023 was revised upwards in the Central Economic Plan in March 2023.²⁰

¹⁶ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), First progress report on the Approach to Money Problems, Poverty and Debts (*Eerste voortgangsrapportage Aanpak geldzorgen, armoede en schulden*).

¹⁷ The Netherlands, Ministry of Finance (*Ministerie van Financiën*) (2023), 'Changes to your health insurance in 2023', (['Veranderingen in je zorgverzekering in 2023'](#)), Webpage.

¹⁸ The Netherlands, Ministry of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2022), 'What will change in 2023 in the area of the Ministry of Social Affairs and Employment?', (['What will change in 2023 in the area of the Ministry of Social Affairs and Employment?'](#)), News release, 21 December 2022.

¹⁹ The Netherlands, , Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2022), Decree of 23 September 2022 amending the Childcare Allowance Decree in connection with the indexation of assessment incomes and maximum hourly prices ([Besluit van 23 september 2022 tot wijziging van het Besluit kinderopvangtoeslag in verband met de indexatie van de toetsingsinkomens en maximum uurprijzen](#)).

²⁰ The Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2023), Decree of 30 June 2023, amending the Childcare Benefit Decree in connection with an additional increase in the maximum hourly rates for childcare benefit for the year 2023 ([Besluit van 30 juni 2023, houdende wijziging van het Besluit kinderopvangtoeslag in verband met een extra verhoging van de maximum uurprijzen voor de kinderopvangtoeslag voor het jaar 2023](#)).

- On 1 January 2023, the housing benefit (*huurtoeslag*) was increased. This means that almost all persons or households entitled to housing benefit will receive an increase in their rental allowance of €16.94 per month.²¹

As part of the 2024 national budget (*rijksbegroting*), two of the aforementioned benefits will be raised again (on 1 January 2024).²² These are the child benefit (*kindgebonden budget*) and the housing benefit (*huurtoeslag*). The child benefit will rise by up to €750 for the first child on an annual basis, by up to €883 for the second and subsequent children and by €400 for children between 12 and 17 years of age. The housing benefit (*huurtoeslag*) will be raised by up to €416 on an annual basis. The central government decided to implement these measures because the Netherlands Bureau for Economic Policy Analysis (*Centraal Planbureau, CPB*) found that without these extra measures the number of people below the poverty line will reach 990,000 persons (5.7% of the population) in 2024 and the child poverty will rise to 7% of all children.²³ As a result of the new measures the number of people below the poverty line will reach 830,000 (4.8% of the population) in 2024 and child poverty falls from 6.2% in 2023 to 5.1% in 2024 .

Government price schemes and additional benefits to combat rising costs of living

In 2023, a price cap on gas, electricity and district heating will apply to households and other small-scale consumers. This means these users will not pay more than a maximum rate up to a certain level of consumption. For most users, the price cap will result in a discount on their energy bills. In 2023, the following maximum rates (including taxes) will apply for the following consumption caps: €0.40 per kWh for 2,900kWh of electricity used; €1.45 per m³ for 1,200 cubic metre of natural gas used; €47.38 per GJ for 37GJ of district heating used.²⁴ If a household uses more than 2,900kWh of electricity or 1,200 cubic metre natural gas, it will be charged the current market rate. On 30 March 2023, the central government decided to allocate a €15.8 million subsidy to the foundation ‘*Voedselvangnet*’, the foundation that procures and supplies food to food banks.²⁵ The

²¹ The Netherlands, Ministry of Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2022), ‘Lower rent for lowest incomes and more rent allowance from 2023’ ([‘Lagere huur voor de laagste inkomens en meer huurtoeslag vanaf 2023’](#)), News release, 22 December 2022.

²² The Netherlands, Central Government (*Rijksoverheid*) (2023), 2024 Budget Memorandum 2024 ([‘Miljoenennota 2024’](#)).

²³ The Netherlands, Netherlands Bureau for Economic Policy Analysis (*Collectief Planbureau*) (2023), Macroeconomic Exploration 2024 ([‘Macro Economische Verkenning 2024’](#)).

²⁴ The Netherlands, Central Government (*Rijksoverheid*) (2023), [‘Price cap for gas, electricity and district heating’](#), Webpage.

²⁵ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), ‘Allocation of ESF+ funds for food aid (2021-2027)’ ([‘Toekenning middelen ESF+ voor voedselhulp \(2021-2027\)’](#)), Letter to House of Representatives (*Tweede Kamer*), 30 March 2023.

subsidy to ‘*Voedselvangnet*’ comes from the European Social Fund (ESF+) and runs until 2027. This is the first time that the Dutch government is using European funds for food aid. The central government also decided to allocate a €2 million subsidy to make free menstrual products available to more women.²⁶ With this subsidy, the Poverty Fund can expand its distribution points for free menstrual products from 1,500 to 2,500. This subsidy comes from national means.

On 29 March 2023, the central government launched its school meal programme (*schoolmaaltijdenprogramma*).²⁷ Primary and secondary schools with at least 30 per cent of pupils or students coming from poorer families can apply for funding. In total, the government has earmarked €100 million to fund the programme. Schools can decide whether to offer breakfast or lunch, or fill a fridge with healthy snacks so children can help themselves. The payout amounts to about €9 per child per week. The programme is aimed at some 300,000 primary and secondary school pupils or students. By September 2023, more than one in five schools will participate in the programme, covering more than 200,000 pupils and students. As part of the national budget for 2024, the scheme will be expanded in 2024.²⁸ €166 million will be made available to fund this in 2024.

The Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) is making €8 million available in 2023 to train teachers who teach students about financial matters.²⁹ The subsidy scheme will first become available to secondary vocational education schools in autumn 2023 and then to primary and secondary schools in 2024. This grant scheme will be open annually for up to five years. Schools can make use of the subsidy grant each year until 2027.

In 2023, a coalition of energy suppliers and two NGOs working for people with debts opened the Temporary Emergency Energy Fund (*Tijdelijk Noodfonds Energie*).³⁰ The central government made a contribution of €24.5 million to the fund, equal to the contribution of the energy suppliers participating in the fund. Households with a gross

²⁶ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), ‘Allocation of ESF+ funds for food aid (2021-2027)’ ([‘Toekenning middelen ESF+ voor voedselhulp \(2021-2027\)’](#)), Letter to House of Representatives (*Tweede Kamer*), 30 March 2023.

²⁷ The Netherlands, Ministry of Education, Culture and Science (*Ministerie van Onderwijs, Cultuur en Wetenschap*) (2023), ‘Free school meals launched’, ([‘Gratis schoolmaaltijden van start’](#)), Press release, 29 March 2023,

²⁸ The Netherlands, Central Government (*Rijksoverheid*) (2023), 2024 Budget Memorandum 2024 ([Miljoenennota 2024](#)).

²⁹ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), First progress report on the Approach to Money Problems, Poverty and Debts ([‘Eerste voortgangsrapportage Aanpak geldzorgen, armoede en schulden’](#)).

³⁰ The Netherlands, Temporary Emergency Energy Fund (*Tijdelijk Noodfonds Energie*) (2023), ‘[News](#)’, Web page, 7 February 2023.

income of up to 200% of the social minimum could apply to the fund for financial support to meet rising energy costs. The Emergency Fund was open between 7 February and 5 May 2023. The fund approved over 96,000 applications, allowing households with high energy bills and low incomes to receive targeted assistance to meet energy costs. In September 2023, the energy suppliers and the central government announced plans to reopen the Temporary Emergency Energy Fund coming winter (2023/2024).³¹

On 6 December 2023, the Temporary Emergency Energy Fund announced on its website that it will reopen the fund in January 2024.³² Compared to 2023, people are more likely to qualify for help:

- People with a low income (up to 130% social minimum) can apply for support if they spend 8% of their income on their energy bill. In 2023 this was 10%.
- For people with a low middle income (up to 200% social minimum), this limit is 10% of the income, instead of 13% in 2023.

In 2024, the central government will make a contribution of €40 million to the fund, and the energy suppliers participating in the fund will make a contribution of €30 million.³³

Research studies and public advocacy reports on measures to combat poverty

On 30 June 2023, the Social Minimum Committee (*Commissie Sociaal Minimum*) published its first report.³⁴ The Committee was established as part of the multi-year Approach to Financial Problems, Poverty and Debt.³⁵ The Committee concludes that without additional measures, people living on the social minimum will be significantly short of money in the coming years. To prevent this, the Committee recommends increasing the minimum wage, the social assistance benefit (*bijstand*) and possibly also the housing benefit (*huurtoeslag*). To combat child poverty, child benefits and/or the child budget should be raised substantially. The Commission reaches this conclusion

³¹ The Netherlands, Temporary Emergency Energy Fund (*Tijdelijk Noodfonds Energie*) (2023), '[News](#)', Web page, 20 September 2023.

³² The Netherlands, Temporary Emergency Energy Fund (*Tijdelijk Noodfonds Energie*) (2023), '[News](#)', Web page, 6 December 2023.

³³ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), 'Temporary Emergency Energy Fund 204' [['Tijdelijk Noodfonds Energie 2024'](#)], Letter to House of Representatives, 6 December 2023.

³⁴ The Netherlands, Social Minimum Committee (*Commissie Sociaal Minimum*) (2023), A secure existence - Towards a future-proof social minimum system. Report I, [[Een zeker bestaan - Naar een toekomstbestendig stelsel van het sociaal minimum. Rapport I](#)].

³⁵ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2022), 'Approach to Money Problems, Poverty and Debt' [['Aanpak geldzorgen, armoede en schulden'](#)], Letter to House of Representatives, 12 July 2022.

based on a report ³⁶ by Statistics Netherlands (CBS), the National Institute for Family Finance Information (Nibud) and the Netherlands Institute for Social Research (SCP) on the necessary costs of living. It also calls for a ‘flex budget’ to prevent people with an income at the social minimum from getting into immediate financial trouble in case of unexpected unavoidable expenses and/or minor calculation errors.

On 28 September 2023, the Social Minimum Committee published its second report. ³⁷ In this second report, the Committee addresses the question of how to achieve a more predictable and accessible system to prevent and fight poverty. The second report shows that the relationship between the government and the municipalities is not in balance due to the increase in tasks assigned to municipalities. Differences between municipalities in the support they provide to people with a low income have therefore become too great. The Committee recommends the centralisation of municipal schemes where possible. Another recommendation is that the local authorities should get more room for customisation to solve acute cases, such as for young people between 18 and 21 years of age and more room for developing policies to achieve a smooth transition from unemployment to a job. Another recommendation is to strengthen the legal position of children when parents cannot support their children anymore, for example by establishing a legal right to basic services (water and energy). Furthermore, the central government should develop additional policies around housing, care and energy and should make the system more predictable and transparent. The benefits system is based on estimates and advance payments and then recoveries, making it very confusing and difficult to plan for people dependent on multiple benefits. The Government has so far not reacted on the Committee’s recommendations. On 8 December 2023, the central government informed parliament about the Simplification of Income Support programme (*programma Vereenvoudiging Inkomensondersteuning voor Mensen*). ³⁸ In this programme the government explores how to make the benefits system more simple.

At request of the Social Minimum Committee (*Commissie Sociaal Minimum*), the Netherlands Bureau for Economic Policy Analysis (CPB) calculated seven short-term policy options that consist of relatively simple adjustments of existing financial

³⁶ The Netherlands, Statistics Netherlands / National Institute for Family Finance Information / Netherlands Institute for Social Research (*CBS / Nibud / SCP*) (2023), Towards a new poverty line. Interim report ([Op weg naar een nieuwe armoedegrens. Tussenrapport](#)).

³⁷ The Netherlands, Social Minimum Committee (*Commissie Sociaal Minimum*) (2023), A secure existence - Towards a future-proof social minimum system. Report II, [[Een zeker bestaan - Naar een toekomstbestendig stelsel van het sociaal minimum. Rapport II](#)].

³⁸ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), ‘A Simplification of Income Support programme (*‘Vereenvoudiging Inkomensondersteuning voor Mensen’*)’, Letter to House of Representatives, 6 December 2023.

instruments.³⁹ This concerns the following options: increase in housing benefit (*huurtoeslag*); increase in healthcare benefit (*zorgtoeslag*); increase in child benefit (*kinderbijslag*); increase in the child budget (*kindgebonden budget*); increase in the statutory minimum wage by 2.2% (including all connected benefits such as social assistance benefit); increase in the statutory minimum wage by 7.0% (partially decoupled from other benefits); increasing social assistance benefits (*bijstand*) to a higher level; increase general tax credit. Increases in housing benefit and social assistance are the most cost-effective to reduce the number of people in poverty. To reduce child poverty, increasing the child budget and child benefit are the most effective. All these measures have a negative effect on supply of labour in the labour market.

On 27 January 2023, research organisation TNO published two studies.

- One study examines the prevalence of energy poverty in the Netherlands.⁴⁰ It gives an estimate on how many energy-poor households there are. The authors of this study asked Statistics Netherlands (CBS) to provide the most up-to-date data on actual energy consumption from 2020 multiplied by the average energy price of 2022. The energy bill thus estimated for 2022 is then adjusted for the various compensation measures that were in force in 2022. These measures were: energy allowance (*energietoeslag*) for low-income households, lower energy tax on electricity, higher energy tax refund, lower VAT on the rest of the energy bill, additional general discount in November and December 2022. In 2020, 512,000 households were energy-poor (6.4% of the total number of households). This study estimates that there were 602,000 energy-poor households in 2022 (7.4% of the total). The financial compensation measures significantly curbed the rise in energy poverty between 2020 and 2022. Without financial compensation measures, the number of energy-poor households is estimated to have doubled compared to 2020 to over one million households (12.5% of the total). In other words, the financial compensation measures are estimated to have saved over 400,000 households from energy poverty (about 5% of the total).
- The second study of TNO examines the question whether energy-poor households in the Netherlands have higher healthcare costs than non-energy-

³⁹ The Netherlands, Netherlands Bureau for Economic Policy Analysis (*Collectief Planbureau*) (2023), Calculating policy options for reducing poverty ([Doorrekening beleidsopties voor terugdringen armoede](#)).

⁴⁰ The Netherlands, TNO (2023), Energy poverty in the Netherlands 2022: a current assessment at national and local level ([Energiearmoede in Nederland 2022: een actuele inschatting op nationaal en lokaal niveau](#)), Amsterdam, TNO.

poor households.⁴¹ The study is based on analysis of anonymised CBS data for over 5.8 million individual households in the Netherlands. For each of these households, administrative data on energy consumption, housing situation, income and personal characteristics were combined with data on healthcare costs. The study shows that the lower the energy quality of homes, the higher the healthcare costs of households are. This correlation is especially strong in the case of children under 18 who live in a house with very low energy quality where the heating is turned off or low. This not only points to negative consequences for the households directly involved, but also to significant societal costs.

In August 2023, a study published by *Ieder(in)*, the Dutch umbrella organisation for persons with disabilities and chronic illnesses, shows that many people with a disability or chronic disease face poverty despite government measures.⁴² The study is based on a questionnaire distributed among people with a disability or chronic illness. A total of 526 people completed the questionnaire. People with chronic conditions, such as a muscular or vascular condition, use much more energy than the average Dutch person because they use electric devices and have to heat their own home more because their bodies have difficulty staying warm or because they are housebound. The government's energy measures do not sufficiently help this group. People with multiple electrical appliances exceed the energy cap for electricity. The price cap is a temporary restriction on the amount a household or persons pays for gas and electricity. It gives a flat rate for energy consumption up to certain amounts (1,200 cubic metres of gas and 2,900 kWh of electricity). If a person uses more than this, the person will be charged the current market rate. Moreover, many persons with a disability do not qualify for the energy allowance (*energietoeslag*) even though their disposable income is often very low, partly due to increased energy costs.

The Netherlands Institute for Human Rights concludes in its submission to the 73rd Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights (CESCR) that monitors the compliance of treaty countries with the International Covenant on Economic, Social and Cultural Rights that the Netherlands is making too little progress in guaranteeing economic and social human rights.⁴³ In its submission, the Institute draws attention to various topics, such as poverty, health and labour.

⁴¹ The Netherlands, TNO (2023), Health costs and energy poverty. An empirical analysis for the Netherlands ([Gezondheidskosten en energiearmoede. Een empirische analyse voor Nederland](#)), Amsterdam, TNO.

⁴² Ieder(in) (2023), Out in the cold : Report of study on the energy bills of people with disabilities or chronic illnesses ([In de kou : Rapportage van de meldactie over de energierekening van mensen met een beperking of chronische ziekte](#)).

⁴³ The Netherlands, Netherlands Institute for Human Rights (2023), [Written submission to the 73rd Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights \(CESCR\) on behalf of the consideration of the seventh periodic report of the Netherlands. August 2023.](#)

Economic and social rights are not yet sufficiently guaranteed in the Netherlands. In the case of some groups, such as people with disabilities, people living in poverty and migrants, the protection of their economic and social human rights has even deteriorated.

On 19 December 2023, Statistics Netherlands published the fifth edition of its biannual report on poverty and social exclusion.⁴⁴ This report states that in 2022, 335,000 households (on a total of 7.7 million households) had to survive on a low income. This amounts to 4.4% of households at risk of poverty. In 2021 that number was still at 6.3% of all households. The strong decrease in the percentage of households at risk of poverty is due to the energy measures implemented in 2022 such as the one-off energy supplement (*energietoeslag*) of €1,300 for low-income households. Without the energy measures, the poverty risk would have increased compared to 2021 to 7.7%. 129,000 of the low-income households already had to live on a low income for at least four consecutive years. This brought the share of long-term low-income households to 1.8% in 2022. This number is significantly lower than the 3.0 % share in 2021. Single-parent families, single persons under the state pension age (currently at 66), households of persons of non-European origin, welfare recipients, the low-educated and 55- to 65-year-olds are groups that traditionally face a relatively high risk of (long-term) poverty.

On 19 December 2023, the Minister for Poverty Policy, Participation and Pensions submitted the second progress report on the Approach to Money Problems, Poverty and Debts to parliament.⁴⁵ This progress report contains figures on poverty produced by the Netherlands Bureau for Economic Policy Analysis (*Centraal Planbureau*, CPB). In 2015 6.3% of people lived in poverty, according to these figures. In 2023, this figure has fallen to 4.8%. It is expected to remain the same in 2024. However, this 2024 estimate does not yet include the additional increase in the statutory minimum wage and related benefits. To meet the government target for reducing poverty, the figure needs to fall to 3.15% by 2030. In 2015, 9.1% of children lived in poverty. In 2023, this figure fell to 6.2%, and is expected to fall further to 5.1% in 2024. By 2025, this proportion is expected to fall to 4.6%.

Table 1 – Promising practice

Promising practice	
Title (original language)	Tijdelijk Noodfonds Energie

⁴⁴ The Netherlands, Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2023), Poverty and social exclusion 2023 ([Armoede en sociale uitsluiting 2023](#)).

⁴⁵ The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2023), Second progress report on the Approach to Money Problems, Poverty and Debts ([Tweede voortgangsrapportage Aanpak geldzorgen, armoede en schulden](#)).

Promising practice	
Title (EN)	Temporary Emergency Energy Fund
Organisation (original language)	Tijdelijk Noodfonds Energie
Organisation (EN)	Temporary Emergency Energy Fund
Government / Civil society	Civil society
Funding body	Central government / Energy suppliers
Reference (incl. URL, where available)	The Netherlands, Temporary Emergency Energy Fund (<i>Tijdelijk Noodfonds Energie</i>) (2023), 'About the emergency fund' ('Over het Noodfonds'), Webpage.
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	First period: 7 February - 5 May 2023 Second period: start in January 2024 – end date is unknown.
Type of initiative	Financial support
Main target group	Low-income households
Indicate level of implementation: Local/Regional/National	National.
Brief description (max. 1000 chars)	<p>In 2023, a coalition of energy suppliers and two NGOs working for people with debts opened the Temporary Emergency Energy Fund. The central government made a contribution of €24.5 million to the fund, equal to the contribution of the energy suppliers participating in the fund. Households with a gross income of up to 200% of the social minimum could apply to the fund for financial support to meet rising energy costs. The Emergency Fund was open between 7 February and 5 May 2023.</p> <p>The fund will reopen in January 2024. The qualification criteria have changed: People with a low income (up to 130% social minimum) can apply for support if they spend 8% of their income on their energy bill. In 2023 this was 10%. For people with a low middle income (up to 200% social minimum), this limit is 10% of the income, instead of 13% in 2023. In 2024, the central government will make a contribution of €40 million to the fund , and</p>

Promising practice	
	the energy suppliers participating in the fund will make a contribution of €30 million.
Highlight any element of the actions that is transferable (max. 500 chars)	The whole practice is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The practice can be repeated, if the need continues or arises again. It is built on a coalition of key partners that can repeat or continue the action when necessary.
Give reasons why you consider the practice as having concrete measurable impact	Because low-income households that face rising energy costs, are supported directly by financial support.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Because in all Member States people face problems because of rising energy prices.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice	During the design and planning two NGOs working for people with debts were involved.
Explain, if applicable, how the practice provides for review and assessment	It provides for assessment by monitoring the number applications and approvals of support. In 2023 the Temporary Emergency Fund was open between 7 February and 5 May 2023. The fund approved over 96,000 applications, allowing households with high energy bills and low incomes to receive targeted assistance to meet energy costs. A total of €43.7 million euros was paid out.

2. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

Table 2 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify **three major challenges** to democracy emerged in the course of 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Attacks and threats to the safety of civil society organisations, human rights	

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
defenders and journalists	
Legal and administrative constraints, harassment, intimidation, and reprisals against civil society organisations, human rights defenders (including SLAPPs - strategic lawsuits against public participation)	<p>In 2023, two developments occurred or were reported indicating, possible or real, legal constraints on actors in civil (civil society organisations and journalists). The locus standi of civil society organisations became a contested issue by a motion adopted by the House of Representative. A study of PersVeilig, a platform organisation whose members are the Dutch Association of Journalists, the Dutch Association of Editors in Chief, the Police and the Public Prosecution Service, shows that a substantial number of journalists in the Netherlands are cautious about publishing to avoid the risk of legal action.</p> <p>On 21 February 2023, the House of Representatives adopted a motion⁴⁶ calling on the government to investigate how a more stringent test for the requirement of representativeness of civil society organisations (in civil proceedings) can be realised within the current Article 3:305a of the Dutch Civil Code. This article provides the possibility for a civil society organisation (specified as a representative organisation by the law) to file a claim to defend the similar interests of other persons or the interests that affect society as a whole against a defendant (the Collective Action). The Collective Action is covered by the regular rules of Dutch civil procedural law.</p> <p>On 17 April, the Minister for Legal Protection responded to this motion by sending a letter to the House of Representatives.⁴⁷ In this letter, the Minister underlines the great importance of access to justice for civil society organisations. He points out that organisations are in their right when they defend interests of other persons, or when</p>

⁴⁶ The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2023) Amended motion by member Stoffer et al. about exploring the extent to which further representativeness requirements should be imposed on interest groups with an idealistic goal on the basis of Article 3:305a of the Dutch Civil Code [[Gewijzigde motie van het lid Stoffer c.s. over verkennen in hoeverre voor belangenorganisaties met een ideëel doel op grond van artikel 3:305a BW nadere vereisten aan representativiteit gesteld moeten worden](#)].

⁴⁷ The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2023), 'Response to motion Stoffer et al. on exploring further requirements representativeness for idealistic interest groups' [[Reactie op motie Stoffer c.s. over verkennen nadere eisen representativiteit voor ideële belangenorganisaties](#)'], Letter to House of Representatives (*Tweede Kamer*), 17 April 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>they defend the interests that affect society as a whole, by making use of Article 3:305a of the Dutch Civil Code. On 20 April 2023, a coalition of Dutch civil society organisations expressed their satisfaction with the minister's letter on their websites.⁴⁸ At the same time the coalition expressed their concerns about the motion. The coalition points out that the civic space for civil society organisations is under severe pressure internationally due to political and administrative measures. This worrying trend undermines the rule of law and must be reversed. Proposals seeking to limit the civic space like the aforementioned motion set off alarm bells at the coalition. The coalition wants to warn against the sliding scale where fundamental rights are incrementally infringed upon, and calls on government and parliament to continue to protect the civic space for civil society organisations.</p> <p>Another issue that has become a concern is the freedom of journalists in the face of legal actions. On 1 March 2023, the platform organisation PersVeilig published the results off a survey held among journalists showing that a quarter of the journalists in the Netherlands are cautious about publishing to avoid the risk of legal action.⁴⁹ The survey is based on an online questionnaire completed by 858 journalists in February 2023. Half of journalists have faced threats of legal action in response to a publication at least once. Twenty per cent actually ended up with legal charges or prosecution. A survey was also held among 39 chief editors. 36 of the 39 chief editors said they have occasionally faced legal threats in response to a publication. This generally happens sporadically: between once and three times a year. A quarter of the journalists surveyed do not feel confident that the Dutch legal system offers protection against unlawful lawsuits or criminal investigations following a publication. Six of the participating chief editors also lack that confidence.</p>

⁴⁸ Dutch section of the International Commission of Jurists (*Nederlands Juristen Comité voor de Mensenrechten*) (2023), 'Civil society organisations warn of sliding scale in restrictions on social space', [[Maatschappelijke organisaties waarschuwen voor glijdende schaal bij inperkingen maatschappelijke ruimte](#)], Web page, 20 April 2023.

⁴⁹ Persveilig (2023), 'Legal threats make journalists more cautious about publishing', [[Juridische dreigementen maken journalisten voorzichtiger met publiceren](#)], Web page, 1 March 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Lack of media freedom a/o media pluralism; disinformation (incl. online)	
Foreign interference	
Lack of (processes for) transparent, accountable, democratic and pluralistic participation in law and policymaking; incl. access to information	
Lack of election integrity (incl. electoral process, political campaigning and party financing)	
Disproportionate use of law enforcement measures (surveillance, police violence, unlawful arrest etc.)	<p>In 2023, several developments and incidents took place which restricted the right to demonstrate. These developments concerned police arrests, police surveillance, area bans imposed by the Public Prosecution Service, letters of warning sent by the Public Prosecution Service, decisions by the Mayor and court decisions. The number of developments and incidents is quite substantial and we provide several examples below. It seems that the responsible authorities (Police, Public Prosecution Service and the Mayor) push the boundaries of what is legally permissible, and, accidentally or not, sometimes go over them. That creates a chilling effect, because it criminalises protesters and influences the public discussion and image surrounding demonstration.</p> <p>On Friday, 27 January 2023, the police arrested six climate activists for incitement to criminal behaviour (obstructing the public road). They were released from custody after questioning. The activists are affiliated to Extinction Rebellion</p>

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>(XR) and had called for a demonstration on the A12 motorway in The Hague on Saturday 28 January. The local authorities were not notified nor was permission sought.⁵⁰ Thereupon, the Public Prosecution Service (<i>Openbaar Ministerie</i>) imposed an order on a total of eight activists (including the six activists who were briefly detained) banning them from the A12 Motorway in the Hague for the next 90 days. On 28 February 2023, the District Court ruled that in five cases the order imposed by the Public Prosecution Service order was justified and in three cases it was not justified.⁵¹ In the latter cases, the area ban was purely preventive, since the activists had only called for a blockade which had yet to take place. They had not disturbed public order at the time of the order, so the area ban could not be justified in their case. In the case of the other five activists the area ban could be upheld, because they had also already called for earlier blockades, which had already taken place, and therefore had contributed to disruption of public order. We describe one of these rulings below under section 2.2 (the ruling in which the area ban was upheld).⁵² The eight activists were also prosecuted for inciting a crime. On 2 August 2023 the District Court of The Hague sentenced 7 of these activists for incitement to criminal behaviour, one of these cases⁵³ we describe below under section 2.2.</p> <p>During the actual demonstration on 28 January 2023, during which the A12 Motorway was obstructed, a total of 768 people were arrested.⁵⁴ Subsequently, the Netherlands</p>

⁵⁰ The Netherlands, Mayor The Hague (*Burgemeester Den Haag*) (2023), 'Proceedings of the Extinction Rebellion demonstration 28 January 28 2023' (['Verloop demonstratie Extinction Rebellion 28 januari 2023'](#)), Letter to Municipal Council, 31 January 2023.

⁵¹ The Netherlands, The Council for the Judiciary (*Raad voor de Rechtspraak*) (2023), 'Court partially upholds area ban on climate activists', [['Rechtbank laat gebiedsverbod klimaatactivisten deels in stand'](#)], News release, 28 February 2023.

⁵² The Netherlands, The Hague District Court (*Rechtbank Den Haag*) (2023), [Case no. 23-002246](#), 28 February 2023, ECLI:NL:RBDHA:2023:2284.

⁵³ The Netherlands, The Hague District Court (*Rechtbank Den Haag*) (2023), [Case no. 09/043416-23](#), 2 August 2023, ECLI:NL:RBDHA:2023:11459.

⁵⁴ The Netherlands, NOS (2023), '768 climate activists arrested at climate demonstration on A12 in The Hague' [['768 klimaatactivisten opgepakt bij klimaatdemonstratie op A12 in Den Haag'](#)], News item, 29 January 2023. The

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>Institute for Human Rights issued a press release in which it stated that the arrests show that the right to demonstrate is under serious pressure.⁵⁵ In the press release, the Institute stressed that the government should facilitate demonstrations. Using law enforcement measures (like arrests) to prevent people from their rights to demonstrate is an extremely serious instrument that cannot be easily justified.</p> <p>On 10 March 2023, the Dutch weekly news magazine 'Groene Amsterdammer' in cooperation with journalistic research platform Investico published an article on the wide-scale collection of personal data of demonstrators by the Dutch police.⁵⁶ The article is based on the analysis of 67 files. Police authorities are constantly requesting personal data not only of demonstrators and activists, but also of their parents. The police has been doing this even though the people concerned have never been arrested or convicted. Bart Schermer, Professor of Law and Digital Technology at Leiden University, commented on this issue by stating in the article that 'the right to demonstrate is under attack here. If you are constantly being monitored, you cannot demonstrate freely.'</p> <p>In July 2023, a total of 175 people received a warning letter of the Public Prosecution Service identifying them as participants in a demonstration at Schiphol Airport on 5 November 2022.⁵⁷ In this warning letter, the public prosecutor informed them that they would not face criminal charges, despite the fact that their behaviour during the demonstration was punishable. Eight people who received a warning letter</p>

Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2023), 'Settlement of blockade A12' (['Afwikkeling blokkade A12'](#)), News Release, 30 January 2023.

⁵⁵ The Netherlands, Netherlands Institute for Human Rights (*College van de Rechten voor de Mens*) (2023), 'Right to demonstrate under pressure, as evidenced by arrest of climate activists', [['Demonstratierecht onder druk, blijkt uit aanhouding klimaatactivisten'](#)], News release, 31 January 2023.

⁵⁶ Van Benthem, D. . . et al (2023), 'Even details of family members of demonstrators are requested' [['Zelfs gegevens van familie van demonstranten worden opgevraagd'](#)], *Groene Amsterdammer*, 10 March 2023.

⁵⁷ The Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2023), 'Identification of climate protesters at Schiphol to be reconsidered' [['Identificatie klimaatdemonstranten Schiphol wordt opnieuw tegen het licht gehouden'](#)]. News release, 7 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>claimed not to have attended this demonstration. Investigations revealed that the Royal Netherlands Marechaussee (the border police) had misidentified seven people. Some of these people raised this issue on X, formerly known as Twitter. On 7 September 2023, the Public Prosecution Service sent a letter of apology to these seven people because they had wrongly received a warning letter identifying them as participants in a demonstration at Schiphol Airport on 5 November 2022. Their personal data in connection with the demonstration on 5 November 2022 will be deleted. The Royal Netherlands Marechaussee will investigate how it established the identities of all other identified climate demonstrators on behalf of the Public Prosecution Service.</p> <p>In the weekend of 9 and 10 September 2023, during a climate demonstration on the A12 motorway in The Hague a large number of people were arrested including parents and their children.⁵⁸ The Police reported the children who were arrested with their parents as at-risk cases to the Safe at Home organisations (<i>Veilig Thuis Organisaties</i>). The Safe at Home organisations act as the advice and reporting centres for child abuse and domestic violence. In daily newspaper AD a spokesperson of the Safe at Home organisation stated that the police appeared to be using the agency's name "as a kind of threat" to parents taking part in the demonstration. "A referral to Veilig Thuis is not a punitive measure and shouldn't be used as such," he said. The spokesperson of the police admitted that almost all the children arrested had been referred to Veilig Thuis, but said this was "standard procedure" for "arrests and other situations where children are at risk, such as neglect." One mother told newspaper 'AD' the police decision to refer her two children, aged 16 and six, to the agency was "pure intimidation". "This was a peaceful</p>

⁵⁸ Bosman, T.(2023), 'Ruan (6) arrested with mother at A12 blockade. Now follows Safe at Home notification: 'This is pure intimidation') "[[Ruan \(6\) arrested with mother at A12 blockade, now follows Safe Home notification: 'This is pure intimidation'](#)]", *AD*, 11 September 2023 ; Bos, K. (2023), 'Police reported to Safe at Home parents who took children to the A12 blockade' ([Politie maakte bij Veilig Thuis melding van ouders die kinderen meenamen naar A12-blokkade](#)), *NRC*, 11 September 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>demonstration, not hooligans rioting,” she said. “We were just sitting on the motorway singing songs and eating biscuits.”⁵⁹</p> <p>In an article in a major Dutch legal journal, two legal scholars address the question of whether the freedom of demonstration in the Netherlands is under pressure.⁶⁰ They examined the rules and restrictions imposed on anti-abortion demonstrations near abortion clinics over the past three years (2020-2022) to see if they comply with laws and treaties. The authors conclude that the way mayors impose rules and restrictions on anti-abortion demonstrations puts pressure on the freedom of demonstration. Given the large number of standard rules that different mayors seem to apply, it does not seem unlikely that these conclusions also apply to demonstrations with other purposes.</p> <p>On 21 November 2023, in the case of <i>Laurijsen and Others v. the Netherlands</i>, the ECtHR held that there had been a violation of the freedom of assembly and association (Article 11 of the ECHR).⁶¹ The case concerned a protest against the eviction of a squat in Amsterdam on 5 July 2011. The applicants were arrested for blockading the road in front of and near the squat and summoned for disturbing public order and failing to comply with a police order to disperse, acts that were prohibited by the municipality by-law. The ECtHR found that the applicants’ participation in the protest fell under the scope of protection of the right to freedom of peaceful assembly and that the Netherlands Supreme Court had not examined whether the applicants’ role in the gathering had been peaceful within the meaning of that provision and had therefore failed to convincingly establish why it had been</p>

⁵⁹ Bosman, T.(2023), 'Ruan (6) met moeder opgepakt bij A12-blokkade, nu volgt Veilig Thuis-melding: ‘Dit is pure intimidatie’[\[Ruan \(6\) arrested with mother at A12 blockade, now follows Safe Home notification: 'This is pure intimidation'\]](#), *AD*, 11 September 2023.

⁶⁰ Swart, N. J. L., & Roorda, B. (2023), 'Does the mayor restrict freedom of demonstration too far? An analysis of legal practice on demonstrations at abortion clinics'[\[Beperkt de burgemeester de betogingsvrijheid te vergaand? Een analyse van de rechtspraak inzake demonstraties bij abortusklinieken\]](#), *Nederlands Juristenblad NJB*, 2023(16).

⁶¹ Council of Europe, European Court of Human Rights (2023), [Case of Laurijsen and Others v. the Netherlands](#), ECLI:CE:ECHR:2023:1121JUD005689617, 21 November 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	necessary to interfere with the applicants' right to freedom of assembly.
Corruption, including misuse of EU funds	
Lack of (effective judicial protection by) independent and impartial courts	
Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection authorities and similar bodies), incl. closure of fundamental rights bodies, legal changes, budget cuts and harassment	
Institutional issues linked to checks and balances (lack of parliamentary oversight, lack of implementation of final court decisions by executive, etc.)	
Other major developments threatening democratic values	On 22 November 2023, the far-right party <i>Partij voor de Vrijheid</i> (Party for the Freedom or PVV) became the largest party in the House of Representatives, by winning 37 out of

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>150 seats in the parliamentary elections.⁶² The electoral manifesto of the PVV contains several proposals which pose serious threats to civic space and the rights to freedom of association, peaceful assembly and expression.⁶³ These proposals include: a ban on the Quran, Islamic schools and mosques; a ban on headscarves in public buildings; the preventive detention of Jihad sympathisers via administrative detention; the proposal that teachers should be politically neutral in the classroom; abolishing government funding of 'leftist' associations. At the end of 2023, the PVV conducting closed-door negotiations with three other parties to form a government. These are the VVD (<i>Volkspartij voor Vrijheid en Democratie</i> or People's Party for Freedom and Democracy), the BBB (<i>BoerBurgerBeweging</i> or Farmer–Citizen Movement), and the recently formed NSC (<i>Nieuw Sociaal Contract</i> or New Social Contract). The scout (<i>informateur</i>) has recommended that these talks take place in three phases: first, the parties must try to overcome clear constitutional issues raised by the election manifesto of the PVV, then reach a compromise on major policy areas including immigration, Europe and the climate crisis.⁶⁴ Lastly, the four will need to define the form of the new government: a coalition with a guaranteed majority in the House of Representatives or a minority government.</p>

⁶² The Netherlands , Electoral Council (*Kiesraad*) (2023), 'Electoral Council determines results of House of Representatives elections 22 November 2023' (['Kiesraad stelt uitslag Tweede Kamerverkiezing 22 november 2023 vast'](#)), News release, 1 December 2023,

⁶³ The Netherlands , PVV (2023), Dutchmen on the first place again. PVV Electoral manifesto 2023 (['Nederlanders weer op 1. PVV Verkiezingsprogramma 2023'](#))

⁶⁴ Henley, J. (2023) '[Geert Wilders is in coalition talks but far from forming Dutch government](#)', Guardian, 21 December 2023.

2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

In the Netherlands, the bill for the Transparency of Civil Society Organisations Act is still pending before the House of Representatives since 20 November 2020.⁶⁵ After an internet consultation, the redrafted version of this bill was submitted to the House of Representatives on 4 May 2023.⁶⁶ The bill consists of two parts: an information obligation that will apply to all civil society organisations, and a filing obligation for foundations. Organisations are required to provide insight into (geographical) origin, purpose and size of one or more donations. The bill aims at preventing undesired foreign influence via donations to Civil Society Organisations (CSOs). In March 2022 a coalition of CSOs commented on the redrafted bill as part of its contribution to the 4th Universal Periodic Review of the Kingdom of the Netherlands.⁶⁷ They expressed concerns about the discriminatory and stigmatizing effect of the bill against CSOs receiving funding from abroad. They also expressed concern about the lack of clear criteria on what may constitute an indication of risk or disruption of ‘public order’ by an organisation, as well as about the additional administrative requirements, supervision and potential restrictions of their activities. The above may lead to legal uncertainty and self-censorship. In its contribution, the coalition of CSOs called on the Dutch government to either reconsider and amend or withdraw the bill for the Transparency of Civil Society Organisations Act.⁶⁸ This did not happen. The redrafted version of the bill was submitted by the government on 4 May 2023.⁶⁹ The scope of the bill has been changed, since in earlier proposals only donations from outside the

⁶⁵ The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), Bill for Transparency Civil Society Organisations Act ([Wetsvoorstel Wet transparantie maatschappelijke organisaties](#)), 20 November 2020.

⁶⁶ The Netherlands, Minister of Justice and Security (2023), Amendment Memorandum. Bill for Transparency Civil Society Organisations Act ([Nota van Wijziging Wetsvoorstel Wet transparantie maatschappelijke organisaties](#)),

⁶⁷ Dutch Section of the International Commission of Jurists (NJCM) (2022), [Contribution of the Dutch Section of the International Commission of Jurists \(NJCM\) and other stakeholders to the fourth Universal Periodic Review of the Kingdom of Netherlands](#).

⁶⁸ Dutch Section of the International Commission of Jurists (NJCM) (2022), [Contribution of the Dutch Section of the International Commission of Jurists \(NJCM\) and other stakeholders to the fourth Universal Periodic Review of the Kingdom of Netherlands](#).

⁶⁹ The Netherlands, Minister of Justice and Security (2023), Amendment Memorandum. Bill for Transparency Civil Society Organisations Act ([Nota van Wijziging Wetsvoorstel Wet transparantie maatschappelijke organisaties](#)),

EU would be covered by the bill. The new bill covers all donations, from inside the EU (including the Netherlands) and outside the EU. The reason for this amendment is to prevent that donations from outside the EU/EEA are unintentionally labelled "suspect" in advance, which can contribute to reducing potential stigmatisation of foreign donations.

On 8 March 2023, two CSO's (*Instituut Maatschappelijke Innovatie* and *Open State Foundation*) published a report on the implementation of the Open Government Act (*Wet open overheid*) which came into force on 1 May 2022.⁷⁰ The Open Government Act replaced the Government Information Act (*Wet Openbaarheid Bestuur*). The Dutch Open Government Act allows anyone to make a request to the Dutch government to disclose public information. The maximum time limit for processing a request is 42 days. Under the Government Information Act this time limit was 56 days. The report concludes that the national ministries took an average of 162 days to respond to a request in 2022. Thus exceeding the maximum time limit by a considerable margin.

On 1 January 2024⁷¹, the Act criminalising the use of personal data for intimidating purposes (doxing) took effect⁷². Obtaining, distributing or otherwise making available identifying personal data of another person or a third party with the aim of instilling fear in that other person, causing severe disturbances to that other person or seriously hindering that person in the performance of his or her duties or profession will be punishable by a maximum term of imprisonment of two years or a fine of up to €22,500. The maximum prison term will be increased by one-third in the event of doxing against persons with a specific profession, such as mayors, politicians, judges, lawyers, journalists and police officers. With the new law, police and prosecutors will have broader possibilities to act against doxing. In addition, the victim can also initiate their own civil proceedings if it is known who posted the offending content online. Compensation and the online removal of the offending content can then be demanded. If the offender is not known, the intermediary hosting the content can always be notified. Intermediaries such as internet providers and online platforms

⁷⁰ The Netherlands, Instituut Maatschappelijke Innovatie / Open State Foundation (2023), Frosted glass. Study on the implementation of the Open Government Act ([Matglas. Onderzoek naar de invoering van de Wet Open Overheid](#)).

⁷¹ The Netherlands, Minister of Justice and Security (Minister van Justitie en Veiligheid) (2023), Decree determining the time of entry into force of the Act criminalising the use of personal data for intimidating purposes ([Besluit tot vaststelling van het tijdstip van inwerkingtreding van de wet strafbaarstelling gebruik persoonsgegevens voor intimiderende doeleinden](#)).

⁷² The Netherlands, Minister of Justice and Security (Minister van Justitie en Veiligheid) (2023), Act criminalising the use of personal data for intimidating purposes ([Wet strafbaarstelling gebruik persoonsgegevens voor intimiderende doeleinden](#)).

have a responsibility to act if they are aware that their platforms or servers are hosting infringing or unlawful content.

Table 3 – Case law

Case law	
Deciding body (in original language)	Rechtbank Den Haag
Deciding body (in English)	The Hague District Court
Case number (also European Case Law Identifier ECLI , where applicable)	Case. No. 23-002246 (ECLI:NL:RBDHA:2023:2284)
Parties	Public Prosecution Service vs 5 climate activists
Decision date	28 February 2023
Web link to the decision (if available)	https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2023:2284
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	<p>The right to freedom of expression (art. 10 ECHR).</p> <p>The right to freedom of peaceful assembly and to freedom of association (art. 11 ECHR).</p>

Case law	
<p>Key facts of the case (max. 250 words)</p>	<p>On Friday 27 January 2023, the police arrested six climate activists for incitement (<i>opruïing</i>) to criminal behaviour. They were released from custody after questioning. The activists are affiliated with Extinction Rebellion (XR) and had called for a demonstration against government subsidies for fossil fuels on the A12 motorway in The Hague on Saturday 28 January. Subsequently, the Public Prosecution Service (<i>Openbaar Ministerie</i>) imposed an order on a total of eight activists (including the six activists who were arrested briefly) banning them from the A12 Motorway and surroundings in the Hague for the next 90 days. The reason for this area ban were their calls for a blockade of a section of the A12 Motorway in the Hague (during the demonstration that was planned for 28 January 2023). The Public Prosecution Service has the authority to impose such a ban under article 509hh of the Dutch Code of Criminal Proceedings in case there are serious suspicions the person in question will commit a criminal offence (in this case, incitement to obstructing a public road as made criminal by article 131 and article 162 of the Dutch Criminal Code).</p> <p>On 28 February 2023, the The Hague District Court ruled that in five cases (including this case) the order imposed by the Public Prosecution Service order was, partially, justified.</p> <p>The climate activist (the appellant) in question contested the area ban because it restricted the right to demonstrate and the right to freedom. Besides, he argued that there should never be a preventive restriction on the right to demonstrate.</p> <p>The Public Prosecution Service argued that the area ban was justified because the ban relates to the suspicion of a criminal offence (incitement to obstructing the public road), which causes serious disturbances of public order.</p> <p>The Court decided that the area ban was justified, but only for a section of the A12 Motorway and not for the surrounding streets. The Court argues that the right to demonstrate includes the right to choose the time, place and manner of demonstration. However, the right to demonstrate is not absolute. Restrictions are permitted, provided they are provided for by law and necessary in a democratic society in the interests of public safety and the prevention of public disorders and criminal offences. They may also include road safety, according to the case law of the European Court of Human Rights (ECHR). Contrary to what has been argued by the appellant, the ECHR does not rule out the imposition of preventive restrictions.</p>

Case law	
The key legal question raised by the Court	The key legal question raised by the Court is whether a preventive restriction on the right to demonstrate (by way of an area ban) is justified in view of the right to demonstrate as enshrined in article 12 of the ECHR. The Court answered this question in the affirmative. The right to demonstrate is not absolute. Restrictions are permitted, provided they are provided for by law and necessary in a democratic society in the interests of public safety and the prevention of public disorders and criminal offences. This may also include the preventions of disorder undermining road safety.
Result of the case in terms of factual outcome, and in terms of assessment of the legal question raised	An area ban imposed by the Public Prosecution Service on a climate activist, preventing him from demonstrating in the contested area, is upheld by the Court. The Court argues that the right to demonstrate is not absolute and an area ban that prevents a person from demonstrating in the contested area is allowed for by law if the person in question is suspected of committing criminal behaviour (incitement to obstructing the public road in this case). The application of the legal provision in question (an area ban under article 509hh of the Dutch Code of Criminal Proceedings) limits civil society space and prevents activists from demonstrating.

Case law	
Deciding body (in original language)	Rechtbank Den Haag
Deciding body (in English)	The Hague District Court

Case law	
Case number (also European Case Law Identifier ECLI , where applicable)	Case no. 09/043416-23 (ECLI:NL:RBDHA:2023:11459)
Parties	Public Prosecution Service vs Climate activist
Decision date	2 August 2023
Web link to the decision (if available)	https://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2023:11459
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	<p>The right to freedom of expression (art. 10 ECHR).</p> <p>The right to freedom of peaceful assembly and to freedom of association (art. 11 ECHR).</p>

Case law	
Key facts of the case (max. 250 words)	<p>This case concerns a climate activist who had called on a social media platform for other people to participate in a demonstration against government subsidies for fossil fuels by obstructing the A12 motorway in The Hague on Saturday 28 January. Earlier, he had also called for obstructing the public road on another date. Article 162 of the Dutch Criminal Code criminalizes obstruction of the public road, article 131 criminalizes incitement to criminal behaviour (like obstructing a public road). The Public Prosecution Service decided to prosecute the activist under these two articles. The activist argued that his behaviour was protected by the right to freedom of expression and the right to freedom of peaceful assembly and to freedom of association as laid down in article 10 and 11 of the ECHR respectively. The Court convicted the activist to 30 hours of community service for incitement (<i>opruuring</i>) to criminal behaviour. The Court argued that the right to freedom of expression and the right to demonstrate are not absolute and that incitement to criminal behaviour (obstructing the public road) is not protected by articles 10 and 11 of the ECHR in this case.</p>
The key legal question raised by the Court	<p>The Court raises the question whether calling on other people to obstruct the public road as part of a demonstration is criminal behaviour in view of the right to freedom of expression and the right to freedom of peaceful assembly and to freedom of association. The Court answers this question in the affirmative. To call on other people to obstruct the public road, even as part of a demonstration, is criminal under Dutch criminal law.</p>

Case law	
<p>Result of the case in terms of factual outcome, and in terms of assessment of the legal question raised</p>	<p>A climate activist who had called on a social media platform for other people to participate in a demonstration against government subsidies for fossil fuels by obstructing a motorway was convicted by the Court to 30 hours of community service because he had committed a felony (<i>misdrif</i>), namely inciting other people to commit a crime (obstructing the public road). The Court addresses in its ruling the question whether the criminalisation of the behaviour of the climate activist in question has a chilling effect preventing people from using their right to freedom of expression and the right to freedom of peaceful assembly and to freedom of association. The Court decided that such a chilling effect does not exist in this case. The Dutch section of Amnesty International reacted with dismay on this ruling of the Court. In a news item ⁷³ responding to the court ruling, Amnesty International states that criminalising peaceful demonstrators for a felony or serious offence (incitement is punishable by up to five years in prison) has a significant deterrent or chilling effect on participating in demonstrations and criminalises peaceful demonstrators.</p>

⁷³ Dutch Section of Amnesty International (2023), 'Troubling sentencing peaceful climate activist' ['Zorgwekkende veroordeling vreedzame klimaatactivisten'], News release, 2 August 2023.
