

The Netherlands / Les Pays-Bas

1. What are the general official measures taken for reacting to and implementing the decisions of international courts and treaty monitoring bodies?
No doubt, every decision of an international court will have its impact on the Dutch judicial system, be it on the way of working of the prosecution service, but also on its decisions regarding to prosecute or not, be it on the judges in their decisions in court, be it on the Dutch legislator, that will have to bring the Dutch criminal law in line with the decision of the relevant international courts: Court of HR Strasbourg, EU Court of Justice, Luxembourg
2. Based on your answer to the 1st question, what are the measures taken particularly for the practical independence of the prosecution services and individual prosecutors? Can you give examples? For example the decisions of the CJEU (2019) regarding the role of the prosecutors in EAW's. This decision demands a fully independent prosecutor to be able to order EAW's by a prosecutor. The Dutch prosecutor however theoretically can be ordered by the MoJ to prosecute or not, in public of course. This lack of 100% independency excluded the Dutch prosecutor from ordering EAW's. Therefore the Dutch Criminal Code was changed, and since December 2019 it is the Investigative Judge that orders the EAW.
3. Are these measures reflected in the law or in the prosecution policy or debate? Both
4. If yes, then were there any changes in the prosecution system as a consequence of such measures? If necessary, yes, see 2
5. Are there also national decisions of the Supreme or Constitutional Courts, or any other highest judicial body at national level, dealing with the question of independence of prosecutors? Could, but not recently
6. Does the prosecution system in your country belong to the judiciary? yes
7. Are prosecutors and prosecution services independent or autonomous from the executive and legislative branches of state power? From the legislative power, yes, but from the executive power not fully 100%, see 2
8. Is there a Council of Prosecutors or a similar equivalent body which can be considered as a mechanism to monitor and ensure prosecutorial independence, including in the way in which the prosecution services operate? No
9. How many of its members are elected by their peers, and does the prosecution policy or the debate within the judiciary produce any impact on the election of the members of the Council of Prosecutors? N.a.
10. Who has the initiative of disciplinary proceedings? N.a.
11. Are prosecutors appointed for life or do they have to fulfil successive terms? Of how many years? None of these, prosecutors are appointed for an indefinite time but can be fired for specific reasons, like committing a crime, etc.

12. Are the rules regarding appointment, transfer, promotion and discipline of prosecutors similar to those of judges? **More or less**
13. May the government instruct the prosecution services, for instance, to prosecute or not to prosecute? Are instructions general or specific in nature? Are they given in writing? Can the prosecution challenge them? **See 2, always in writing and in public, the last time it happened was in 1997 in a case regarding euthanasia.**
14. Are the instructions of superior prosecutors given in writing to those under their supervision? Can these instructions be challenged or refused? **Yes, they are, but more likely a professional discussion will take place between prosecutor and supervisor. Written instructions cannot be refused.**
15. Which are, if any, the main initiatives in terms of training to strengthen the awareness about the *de facto* dimension of the prosecutorial independence? **Important part of the training of prosecutors is to make their independent position clear.**
16. To what extent the media cover the decisions of international courts and treaty bodies as regards the practical independence of prosecutors? **Not very much**
17. To what extent the prosecutor offices interact with the broad public as regards the decisions of international courts and treaty bodies related to the practical independence of prosecutors? **Not very much**