



## **INTERNSHIP REPORT AND SUMMARY**

### **Identification of the participant**

Name: Moonen  
First name: Toon  
Nationality: Belgian  
Country of exchange: Netherlands

### **Identification of the exchange**

Hosting jurisdiction/institution: Council of State  
City: The Hague  
Country: Netherlands  
Dates of the exchange: 12 May – 23 May 2025





## SUMMARY

My work visit in the Netherlands was aimed at introducing me to the Council of State in general and to the Council's two main divisions: the Advisory Division and the Administrative Jurisdiction Division. I met people from almost all entities within the organization, attended formal sessions and court hearings, internal deliberations and meetings. Apart from the functioning of the Council, I was able to familiarize myself with a number of current legal challenges for Dutch (administrative) law, such as regarding the environment and migration. Even if there are many similarities between the Belgian and the Dutch councils of state, I noted interesting differences. These provide learning opportunities. In terms of the daily litigation process, I was impressed by the approach to court hearings. In terms of court management, I think I can take home good practices with regard to knowledge management and exchange.

A digital platform for participants to meet each other and to share experiences may offer additional networking opportunities.



## REPORT

### I. Programme of the exchange

*Institutions you have visited, hearings, seminars/conferences you have attended, judges/prosecutors and other judicial staff you have met... The aim here is not to detail each of the activities but to give an overview of the contents of the exchange. If you have received a programme from the hosting institution, please provide a copy.*

My work visit at the Council of State in the Netherlands was aimed at introducing me to the Council in general and to the Council's two main divisions: the Advisory Division and the Administrative Jurisdiction Division. It included the following meetings and activities.

With regard to the general functioning of the Council:

- Meetings with the vice-president and an adviser of the Management Support Department (introduction to the institution and contextualisation of the Council's position within the Dutch legal and political system).
- Meeting with the press officers and spokespersons of the communication unit (introduction to the Council's communication strategy and press relations).
- Meeting with the library team (introduction to the library services, catalogue and knowledge management initiatives).
- Meeting with the digitalisation officer (introduction to initiatives concerning the digitalisation of work processes).
- Meeting with the secretaries of the constitutional deliberation forum (introduction to the exchange forum for constitutional matters between the divisions) and attendance of the constitutional deliberation forum.

With regard to the functioning of the Advisory Division:

- Meetings with section presidents and state councillors of the Advisory Division; attendance of section meetings and a full division meeting (introduction to functioning, responsibilities, processes and challenges).
- Meetings with the director, section heads and legal advisers of the supporting Advisory Department.
- Meeting with the secretary of the knowledge exchange team of the Advisory Department and attendance of a team meeting.
- Attendance of biweekly informal (mixed division and department) exchange.

- Attendance of monthly thematic lunch seminar with external speaker.

With regard to the functioning of the Administrative Jurisdiction Division:

- Meetings with the president, chamber presidents and state councillors of the Administrative Jurisdiction Division; attendance of court sessions of the spatial planning and general chamber (introduction to functioning, responsibilities, processes and challenges).
- Meetings with the director, unit heads, lawyers and chamber coordinators of the supporting Administrative Jurisdiction Department.
- Attendance of thematic meetings (mixed division and department) about migration, environmental and EU law issues.

## II. The hosting institution

*Brief description of the hosting institution, its role within the court organisation of the host country, how it is functioning...*

In brief, the Council of State (Raad van State) of the Netherlands<sup>1</sup> takes up two roles, for which there are two divisions. Both divisions are composed of state councillors (staatsraden). The Advisory Division (Afdeling Advisering) provides advice to the political branches of government. It advises primarily on bills drafted by the executive branch, orders in council and treaties. The advice involves a policy, legal and technical analysis. Beside a limited number of other institutions, including the Supreme Court (Hoge Raad), the Administrative Jurisdiction Division (Afdeling Bestuursrechtspraak) serves as a supreme court in administrative cases. First, with some exceptions, it hears appeals against municipal, provincial or governmental decisions. Second, this division also hears appeals lodged against judgments by district courts. Its decisions are final. In this division, there are three chambers: a spatial planning chamber, a migration chamber and a general chamber. The latter hears cases about, for example, education and housing and healthcare benefits. Apart from those two main divisions composed of state councillors, there is a large support staff, half of whom are lawyers. The departments they compose provide support to the divisions and take care of other services, such as personnel, IT, communication and management.

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<sup>1</sup> <https://www.raadvanstate.nl/talen/en>.

### III. The law of the host country

*With regard to the activities you took part in during the exchange, please develop one aspect of the host country's national law that you were particularly interested in.*

In terms of substantive law (unrelated to the Council's institutional set-up or procedure), it was interesting to note that both the Advisory Division and the Administrative Jurisdiction Division are confronted with delicate questions relating to nitrogen emission standards in agriculture, industry and traffic. Those questions arise as part of the applicable environmental law standards, and in particular in application of EU Council Directive 92/43/EEC of 21 May 1992 'on the conservation of natural habitats and of wild fauna and flora' (Habitats Directive) in view of the protection of Natura 2000 areas. This drew my attention, as the same is true for Belgian (Flemish) courts. As a member of the Legislation Section of the Belgian Council of State, I have equally been involved in advisory work concerning the legal aspects of nitrogen emission policy (e.g. 74.348/1/V of 2 October 2023).

In the Netherlands, the Administrative Jurisdiction Division has established important case law in this regard, for example in the Rendac case (ECLI:NL:RVS:2024:4923) concerning "internal netting". Also, during my time in The Hague, the Advisory Division delivered an informative advice on the possibilities to introduce an arithmetic lower limit for nitrogen deposition (W11.25.00063/IV of 21 May 2025)<sup>2</sup>. In it, the Council of State concluded that introducing such a lower limit carries risks. Any individual nitrogen source can lead to nitrogen deposition on a Natura 2000 site. The aforementioned directive requires administrative authorities to justify that objective data can rule out a project's significant impact on such sites. This justification must be based on the best scientific knowledge available.

### IV. The comparative law aspect in your exchange

*What main similarities and differences could you observe between your own country and your host country in terms of organisation and judicial practice, substantial law ...? Please develop.*

My focus during the exchange was on the functioning and organisation of the Council of State. In what follows, I will point out a number of remarkable similarities and differences in that respect.

Both in Belgium and the Netherlands the Council of State comprises two divisions, one being charged with advising the political branches of government and one with the adjudication of

<sup>2</sup> <https://www.raadvanstate.nl/adviezen/@149237/w11-25-00063-iv>.

governmental decisions. In both countries, within each division, the workload is further divided between sections and chambers. The size of each division is, proportionally, comparable (the advisory branch in Belgium having become somewhat larger recently). The professional background of state councillors appears comparable in both countries. For example, many have academic backgrounds or have had a career as an attorney before joining the bench.

The Dutch Advisory Division offers advice on legal and policy issues. In Belgium, the advice is limited to legal issues. As a result, in the Netherlands the selection of state councillors for this division is politically somewhat more salient. Also, the influx of requests in this branch in Belgium is wider: it also concerns royal and ministerial decrees. In the Netherlands, this is more selective, meaning time and resources can be awarded to fewer cases. Cases in the Belgian advisory branch are only rarely decided by all state councillors. For Dutch cases, however, this is standard practice.

With few exceptions, the adjudicatory branch of the Belgian Council of State does not sit as a court of appeal vis-à-vis other administrative courts, as its Dutch counterpart does. Rather, in cases where an administrative court has already ruled on the case, it exercises a cassation function. As a result, since the creation of a separate court for alien law litigation, the influx of cases relating to this topic has been reduced (although it is still substantial). The same applies to environmental and spatial planning cases, as far as the Flemish Region is concerned. This stands in contrast to the Dutch Administrative Jurisdiction Division, where these two subjects make up the majority of cases.

In the Dutch Council of State, both the Advisory Division and the Administrative Jurisdiction Division are supported by lawyers from the corresponding departments. In the Belgian Council, there are no such departments, but an independent corps of auditors investigates each case before the state councillors deliver their advice or adjudicate the case. Nevertheless, it appears there are similarities to what the department lawyers, on the one side, and the auditors, on the other, bring to the table in terms of preparation of the cases, specialization and (as far as the advisory function is concerned) contacts with the government. Also, in practice, it appears that the Dutch lawyers, too, work rather independently from the state councillors.

## V. The European aspect of your exchange

*Have you had the opportunity to observe the implementation or references to the instruments of law of the EU, or/and of the European Convention on Human Rights, etc.? Name some of the main issues encountered within these contexts and explain them.*

Apart from the substantive issue of European environmental law raised under part III, I was able to observe the relevance of European law for the daily work of the migration chamber of the Administrative Jurisdiction Division. As I learned, this field of law has become highly “Europeanised” over the last years, as attested for example by more regular preliminary references from Dutch administrative judges to the Court of Justice in Luxembourg.

Furthermore, from a process perspective, the Council of State invests considerable effort in the correct implementation of EU law and jurisprudence, for example through meetings about the relevancy of new case law, *ad hoc* working groups, and discussion in the regular EU deliberation forum, bringing together state councillors and lawyers sharing a particular EU law background. It was interesting to note that beside substantive legal issues, EU law may also relate to court processes themselves. For example, the consequences of the *Hann-Invest* case (ECLI:EU:C:2024:594) for Dutch judicial practices has recently been a point of consideration<sup>3</sup>.

## VI. “Good Practice” within the host jurisdiction

*What are some of the characteristics of administrative law or administrative litigation within the host country which should be exported to other countries (i.e. restrictive deadlines on proceedings, obligatory prior access to administrative aid, correction of contraventions to the law during the proceedings, etc.).*

The possibility to invite judges from other courts to occasionally sit in the Administrative Jurisdiction Division (so-called state councillors “in buitengewone dienst”), for example from the Hoge Raad, and *vice versa*, is a characteristic I found interesting with a view of safeguarding nationwide unity in the way administrative law is understood and applied. Also, the possibility to ask for an outsider perspective (from so-called state councillors “advocaat-generaal”) in order to develop a deeper contextual understanding of a legal problem appears worthwhile.

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<sup>3</sup> See e.g. the report of the Commissie rechtseenheid bestuursrecht 2024, available at: [https://www.hogeraad.nl/publish/pages/2069/jaaroverzicht\\_commissie\\_rechtseenheid\\_bestuursrecht\\_2024\\_1\\_1.pdf](https://www.hogeraad.nl/publish/pages/2069/jaaroverzicht_commissie_rechtseenheid_bestuursrecht_2024_1_1.pdf), 3.

A practice I find particularly convincing in terms of daily court proceedings is that the state councillor presiding over a case makes a considerable effort to explain to parties (who are not always represented by counsel) the process, to lower the threshold for participation as much as possible, and to reduce even complicated cases to the core points in need of discussion through a question-and-answer format.

## **VII. The benefits of the exchange**

*What have you gained from your work exchange? Could these gains be useful within your professional practice? How will you ensure that your colleagues benefit from the knowledge that you gain during your work exchange?*

The added value from the exchange lies in the insights I was able to acquire in the organization of a court with constitutional functions comparable to my own. Understandably, I was able to notice many similarities. However, I think I was able to learn most from those aspects where, for whatever reason, different practices have emerged. Those challenged me to understand why these differences exist and whether it would be a good idea to adopt some of those practices at home as well.

For example, an issue I have developed a particular interest in is the way the Council of State in Belgium deals with knowledge management and exchange. Having seen a number of alternative strategies to organize that aspect of court life, I think there is room to move forward. On this and a number of other issues, I have been able to gather useful information in The Hague which I can now share with my colleagues in Brussels. A first step is to pass on the necessary background (including to the designated decision making bodies within the organization) and to explain the core take-aways from my exchange. From that point, short-term goals can be set, which can be achieved without great institutional effort (for example because they are voluntary or concern individual practices only). Those can be distinguished from more long-term strategies, which may require more planning (for example because they imply reorientation of human resources).



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## VIII. Suggestions

*In your opinion, what aspects of the Exchange Programme could be improved? How?*

It would be worthwhile to create a (digital) platform for all programme participants (for example of a particular year) to get to know each other. That way, participants can exchange experiences and good practices. Furthermore, it would broaden their professional network beyond the host institution.



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