



VISOKI UPRAVNI SUD REPUBLIKE HRVATSKE

HIGH ADMINISTRATIVE COURT OF THE REPUBLIC OF CROATIA

## **MECHANISMS OF COUNTERACTING CONFLICTING RULINGS FROM DIFFERENT DOMESTIC COURTS AND FROM THE CJEU AND ECtHR**

The focus of the Finnish - Swedish presidency of the ACA 2023 - 2025 will be on the vertical dialogue between the Supreme administrative jurisdictions, the Courts of the European Union and the Council of Europe in its procedural dimension. Within this framework, the seminar organized by ACA and the High Administrative Court of the Republic of Croatia, which will be held in February 2024 in Zagreb, will feature the topic of existing mechanisms of counteracting conflicting rulings from different courts at the European and domestic level. Considering the jurisdiction of the courts - members of the ACA, the submitted questionnaire refers to administrative disputes.

The questionnaire contains questions about observing and studying the case law of the Court of Justice of the EU (hereinafter: CJEU) and the European Court of Human Rights (hereinafter: ECtHR). Questions related to the implementation of the decisions of the CJEU, its principled positions, are also raised, as well as the possibilities of counteracting conflicting final rulings from domestic courts and the CJEU.

In relation to the ECtHR, the issues primarily relate to the status and application of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: Convention) in the legal order of a particular country. Furthermore, the questions are related to the procedure in the specific administrative dispute in which the ECtHR ruling was made, but also to the application of the positions expressed in other cases, that is, to the possibility of counteracting the inconsistency of final rulings from domestic courts with the case law of the ECtHR. Questions were also raised about the status of Protocol No. 16 to the Convention and the possible role of advisory opinions in preventing conflicts between the case law of domestic courts and the case law of the ECtHR.

Further questions deal with the relationship of domestic courts and the domestic Constitutional Court (if there is any), as well as the harmonization of the case law of domestic courts with the case law of the Constitutional Court.

Finally, attention is paid to mutual dialogue between the domestic supreme courts and the possibility of counteracting conflicting case law of these courts.



## I CJEU

1. How is the case law of the CJEU studied and observed at your Court? Do you have, e.g., a department for this purpose?

*The four highest administrative courts in the Netherlands are (1) the Administrative Jurisdiction Division of the Council of State; (2) the Central Council of Appeals (Centrale Raad van Beroep); (3) the Trade and Industry Appeals Tribunal (College van Beroep voor het Bedrijfsleven); (4) the Tax Chamber of the Supreme Court (Hoge Raad). In the Netherlands, there are no provisions in law that prescribe how these courts should monitor and apply (EU) law in their judgments. Since, however, all national courts are considered to be EU courts as well (article 19 TEU), each of them provides its own internal rules and mechanisms to monitor and apply (EU) law within their own court. The Administrative Jurisdiction Division of the Council of State, for instance, established a Commission of judges for the law of the European Union (in Dutch: Commissie recht van de Europese Unie, or in short: CrEU). The role of this CrEU is both proactive, by monitoring developments in EU law, and reactive, by reviewing draft judgments with an EU law element before they become definitive. In addition, each of the three chambers of expertise that exist within this court employ an EU law coordinator. All jurists and judges in the chambers need to follow courses on EU law that are organized by the EU law specialists within the organization and the CrEU regularly organizes lectures for the whole staff on topical developments in EU law. The CrEU also develops and regularly updates handbooks on the most commonly encountered questions and doctrines of EU law in the practice of the Administrative Jurisdiction Division, including instructions on drafting preliminary questions for the European Court of Justice.*

1.1. If the answer to the previous question is affirmative, how many people are employed in that Department and what education have they completed? What is the role of the Department (e.g., advisory)?

*At the Council of State, the CrEU has an advisory role. It consists of eight judges who are specialized in EU law. One of the judges presides the CrEU and leads the two-weekly meetings. When the president is unavailable, there is a vice-president who assumes her tasks. In addition to the judges, the CrEU has 3.5 fte support staff / legal secretaries, who are also specialized in EU law. The minimum educational requirement for the legal secretaries is a master's degree with a specialization in EU law. Usually, they have additional EU-experience as well. Currently three of them obtained a PhD in EU law. The fourth obtained ample experience with EU law as a lecturer at university and at a court of first instance. The CrEU also employs an information specialist, who regularly follows up on EU case law and relevant academic literature on EU-administrative law issues. The EU-coordinators of the three chambers of the Administrative Jurisdiction Division join the meetings of the CrEU function as a link between the day-to-day writing of judgments and the more general study of EU law which is done by and with the help of the CrEU and its support staff. The EU-coordinators have ample experience with EU law within and often also outside the Administrative Jurisdiction Division of the Council of State. They monitor pending*



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*cases that demonstrate EU law elements and often assist the jurists and judges with research and drafting judgments.*

*The assemblies of the CrEU are meant to evaluate the application of EU law in the judgments of the Administrative Jurisdiction Division. Here, the most pertinent cases that deal with (new) questions of EU law are discussed. During the meeting, the CrEU deliberates on the correct application of EU law. Usually the EU coordinators and/or the legal secretaries and the president of the CrEU are already consulted in an earlier stage of the drafting process. The CrEU assembly is then often the final stage of EU coordination. When the CrEU concludes that additional research is necessary, the EU-coordinators and legal secretaries can continue to assist in the subsequent stages of drafting and follow-up on the advice the CrEU has provided.*

*The assemblies of the CrEU alternate with two-weekly gatherings of CrEU members, legal secretaries, EU-coordinators and other EU-interested colleagues to discuss the most recent case law of the Court of Justice of the European Union and the most relevant academic literature on developments in EU law. Additionally, all members monitor relevant political and legal developments on their own account and share the most interesting news they receive with the members of the CrEU and/or legal secretaries and/or other EU-interested colleagues.*

2. Is there a possibility of repealing a final ruling made in an administrative dispute if the CJEU adopts a ruling in another case indicating that an earlier final ruling of a domestic court is erroneous? If there is such a procedure, in what formation (number of judges) does the administrative court adopt its decisions?

*Dutch legislation does not provide for a procedure to change a final ruling due to a different later decision or position of the European Court of Justice. [Artikel 8:119](#) of the General Administrative Law Act (GALA; in Dutch: Algemene wet bestuursrecht (Awb)) does provide a possibility to review a judgment that has become final, but only based on newly encountered facts or circumstances. In that case, a new procedure is initiated. New insights on the application of substantive law, including the interpretation of EU law or the issuance of a new judgment by the European Court of Justice, are not included as valid grounds on the basis of which this review can be requested.*

*An example of the application of this provision can be found in a case where the Central Council of Appeals (Centrale Raad van Beroep) dealt with a request for revision due to incompatibility of the contested decision with a judgment of the European Court of Justice that predated the contested decision. The request was rejected, because (perceived) incorrect application of the law is not of a factual nature and therefore cannot be a valid ground for the revision of a final judgment (17 November 2006, [ECLI:NL:CRVB:2006:AZ2586](#)). In subsequent case law of the highest administrative courts, the principle was upheld as well (e.g. a judgment from the Administrative Jurisdiction Division of the Council of State of 17 April 2019, [ECLI:NL:RVS:2019:1209](#)).*

*Artikel 8:119 of the GALA also provides that only circumstances that occurred before the final judgment was issued can be a reason to request another review of the case. Hence, even if advancements in the interpretation of the law would be accepted as a*



*reason for review, which they are not, judgments that were drafted after the contested final decision of the national court, could not constitute a valid reason for review.*

*An example of the application of this second condition for reopening proceedings in a case where a final judgment was issued can be found in a case where the Tax Chamber of the Supreme Court of the Netherlands rejected a request for revision due to incompatibility of the contested decision with a judgment of the European Court of Justice that postdated the contested decision. The request was rejected, because revision of a case can only be considered on the basis of new facts and circumstances that occurred before the final judgment was issued (24 June 2011, [ECLI:NL:HR:2011:BM9272](#)).*

*If, however, a case would be reviewed within the boundaries of article 8:119 GALA, it is possible to invoke the newer decision of the CJEU in the renewed dispute. A request for revision is dealt with by a single judge or in a panel of three judges (judgment of the Administrative Jurisdiction Division of the Council of State of 10 July 2017, [ECLI:NL:RVS:2017:2856](#)). The formation in the renewed procedure is dependent on the type of case, but most common it is a chamber of three judges.*

*If a party considers that a wrongful interpretation of EU law or the omission to refer a preliminary question to the CJEU by the highest administrative court violated the rights conferred upon him by EU law, he is able to lodge a claim for damages at a civil court. The civil court will consider the seriousness of the violation and the causality between the violation and claimed damages (CJEU 30 September 2003, C-224/01 Köbler EU:C:2003:513; CJEU 21 December 2021, C-497/20 Randstad Italia EU:C:2021:1037; Dutch District Court of The Hague, 22 December 2021, [ECLI:NL:RBDHA:2021:15447](#)).*

2.1. Are the parties authorized to initiate the repealing of a final ruling in the aforementioned case? Apart from the parties, is any other body (authority etc.) involved in such a procedure? Is there a deadline for submitting such a request?

*As stated above, Dutch law does not allow to renew a procedure in which a final judgment was issued due to advancements in the law or a decision of the CJEU that indicates that the earlier ruling of the domestic court was erroneous. Reviewing a case within the boundaries of article 8:119 GALA because new information about circumstances that existed before the final judgment becomes available, can only be done by the parties that were involved with the case of which revision was asked (judgment of the Administrative Jurisdiction Division of the Council of State of 25 November 2015, [ECLI:NL:RVS:2015:3598](#)). The law does not mention a deadline within which a revision request should be submitted. In practice, however, the request should be submitted within reasonable time from the date where the party learned of the new circumstances that motivate the petition. This reasonable time is usually one year (judgment of the Administrative Jurisdiction Division of the Council of State of 28 January 2015, [ECLI:NL:RVS:2015:308](#)).*



2.2. Is the administrative court authorized to react *ex officio* in the aforementioned case? Is there a prescribed deadline for such action?

*The GALA does not provide in ex officio annulment of judgments. In very special cases, however, the courts do assume the competence to declare a judgment void to remedy obvious errors by a judge that cannot be rectified or otherwise addressed by the available legal remedies (judgment of the Administrative Jurisdiction Division of the Council of State of 18 December 2019, [ECLI:NL:RVS:2019:4255](#)). The annulment of a decision on these grounds can be used to remedy procedural mistakes as well as apparent mistakes on the substance of a case. Annulment is done ex officio and can follow upon a received complaint, but it cannot be considered an additional legal remedy. The legal consequence of an annulment is that the judgment must be considered to have never existed. In the same decision as the annulment, the court issues a new judgment in the concerned case.*

*If a final judgment is (evidently) contrary to a later decision of the CJEU, annulment is theoretically possible if the court ex officio finds that it made an obvious error. Up until now, however, annulment has not been used for that purpose.*

*The rules for annulment apply equally to judgments that deal with national or EU law. Legal practice is therefore in accordance with the principle of equivalence.*

2.3. In the case of conflict between a domestic court decision and a newer CJEU judgment, what kind of procedure is adopted for establishing that the earlier final ruling is not in accordance with the position of the CJEU? How are the positions of parties collected in such a procedure?

*The answers to the previous questions explain that the Dutch legal system does not usually allow a case where a final judgment was issued to be reviewed due to a conflict with a newer CJEU judgment. Adaptation of the legal view that led to the erroneous judgment is thus dependent on the occurrence of a new case that presents a similar legal question that must be answered with the new CJEU interpretation of EU law in mind. This can either be the same case that led to the earlier judgment, if it has been accepted to be reviewed in accordance with article 8:119 GALA, or an entirely new case that presents the court with a similar legal question as the earlier case in which a final ruling was made. An example is the procedure where an applicant requests the administrative body to review its original decision or when the administrative body withdraws or alters the decision ex officio (see the answer to question 4 in chapter 'II ECtHR').*

*During the proceedings, the court allows each party to submit their arguments and counter the views of the other party / parties. If necessary, parties are explicitly invited to submit their views on a particular question of the law, such as the interpretation of a judgment of the CJEU. The court also does its own research on the implications of the new CJEU judgment which includes studying the responses from literature to the CJEU case. If necessary, the court explicitly alters its position on a legal question in comparison with earlier judgments (see e.g. judgment of the Administrative Jurisdiction Division of the Council of State of 14 april 2021, [ECLI:NL:RVS:2021:786](#)).*



*The (highest) administrative courts thus cannot (usually) review an earlier judgment due to a conflict with a new position of the CJEU, neither on request of the parties, nor ex officio. They do, however, proactively monitor the case law of the CJEU and its potential impact on national case law. The CrEU regularly discusses new developments in EU law. If a change in the domestic case law due to a new position of the CJEU is foreseen, this usually leads to a preparatory analysis of the compatibility of the national jurisprudence with the CJEU judgment. Then, when a suitable case arrives at the court, the revision is already anticipated and the preparation for the hearing and the judgment is made a little easier.*

#### 2.4 Is a legal remedy permitted against such a ruling?

*If the new ruling of the CJEU is first applied by an administrative court of first instance, parties can appeal its judgment with one of the four highest administrative courts of the Netherlands, depending on the topic. If there is an evident misinterpretation or misapplication of EU law in the case law of the highest administrative courts, their judgments can become subject to a complaint submitted to the ECHR, to a civil liability claim submitted to a civil courts, or an infringement procedure before the CJEU (article 258 TFEU).*

#### 2.5. If the aforementioned procedure exists, in approximately how many or what kinds of administrative disputes in the period 2012 - 2022 was the possibility of changing a final ruling that is not in accordance with the later position of the CJEU used?

*As the answers to the earlier questions explain, such a procedure does not exist in the Netherlands. Otherwise, the interpretation of EU law and/or the application of CJEU judgments that postdate domestic case law are part of most cases that arrive at the (highest administrative) courts. Consequently, there are no data about the number of cases where a judgment of the CJEU led to a change in national jurisprudence.*

#### 3. Has the legislation been changed due to observed conflicts between the case law of domestic courts and the case law of the CJEU? In the affirmative, please provide an example!

*In some cases, judgments of the CJEU have resulted in legislative change. Most often, this is not the direct result of a conflict between domestic case law and the case law of the CJEU, but the result of a judgment of the CJEU following upon a preliminary question of a national court on the compatibility of a national rule or practice with EU law. Incidentally, the court of first instance refers a preliminary question on the compatibility of case law of (one of) the highest administrative courts with EU law. Such reference could lead to a conflict between the case law of these courts and the judgment of the CJEU in the preliminary referral. The outcome sometimes requires legislative change to rectify the rules that led to the incompatibility of the law and the pertaining case law with EU rules. These situations are scarce, but not entirely absent. One example was the interpretation of an EU-citizen being forced to leave the territory of the European Union by the refusal to issue a residence right to a family member under article 20 TFEU (case of the CJEU of 8 March 2011, C-34/09 Ruiz Zambrano*



[ECLI:EU:C:2011:124](#)). The national legislature opted for a very restrictive reading of this criterion to become eligible for family reunification rights, which precluded the conferral of a residence right on the third-country national family member (parent) of an EU citizen when there was another family member (parent) available to provide care. Eventually, the Central Council of Appeals referred a preliminary question to the CJEU on the compatibility of this practice with EU law. The CJEU ruled that the Dutch interpretation of the doctrine was too restrictive (case of 10 May 2017, C-133/15 Chavez-Vilchez [ECLI:EU:C:2017:354](#)). This led to legislative change and a broader interpretation of article 20 TFEU by the Administrative Jurisdiction Division of the Council of State.



## II ECtHR

1. How is the case law of the ECtHR studied and observed at your Court? Do you have, e.g., a department for this purpose?

*As stated before (see the answer to question 1 in chapter 'I CJEU'), the Netherlands have four administrative high courts. There are no provisions in law that prescribe how these courts should monitor and apply the case law of the ECtHR in their judgments. Each of them provides its own internal rules and mechanisms to monitor the case law of the ECtHR within their own court. The Administrative Jurisdiction Division of the Council of State, for instance, established a Constitutional Law Committee (Constitutioneel Beraad). This Constitutional Law Committee monitors the case law of the ECtHR and gives advice about this case law to the Administrative Jurisdiction Division in concrete cases, on request of the Administrative Jurisdiction Division. Each of the three chambers of expertise that exist within this court employ a constitutional law coordinator. These coordinators also monitor the case law of the ECtHR and function as a link between the Constitutional Law Committee and judges and jurists that work on concrete cases.*

1.1. If the answer to the previous question is affirmative, how many people are employed in that Department and what education have they completed? What is the role of the Department (e.g., advisory)?

*The Constitutional Law Committee has an advisory role. The Constitutional Law Committee consists of ten members with extensive knowledge of constitutional law (including the ECtHR case law). The Constitutional Law Committee is supported by legal secretaries (2,5 fte), who are also specialized in constitutional law. The minimum educational requirement for the legal secretaries is a master's degree with a specialization in constitutional law. The same applies to the constitutional law coordinators.*

2. What is the hierarchical status of the Convention in the legal order of your member state?

*The Convention is directly applicable and takes precedence over national law. This follows from articles 93 and 94 of the Dutch Constitution.*

2.1. How does this status affect the application of the Convention in administrative disputes (is the Convention applied directly)?

*The Convention is applied directly.*

2.2. Is there a specific body (court) that controls the application of the Convention in administrative disputes?

*No. All administrative courts (the courts of first instance and the four highest administrative courts) can apply the Convention directly.*





3. According to the domestic law (or case law), is a violation of Convention or a deviation from the ECtHR case law, determined by a domestic court (e.g. court of appeal), a possible reason for repealing the ruling of a lower court that committed the violation? If the answer is affirmative, which legal remedies or instruments are available and what is the procedure like?

*Yes. If one of the four highest administrative courts determines in an appeal that the appealed court ruling is not in conformity with the Convention/the procedure before that court of first instance did not comply with the Convention, the court ruling will be annulled.*

4. What are the procedural possibilities of a party whose administrative dispute has been concluded, and in relation to which the ECtHR found that a violation of the Convention has been committed?

*Dutch legislation does not provide for a procedure to change a final ruling of an administrative judge due to a different later ruling of the ECtHR (see the answer to question 2 in chapter 'I CJEU').*

*However, a party whose administrative dispute has been concluded can always ask the administrative body that made the contested decision, to revoke its decision and replace it with a new decision that complies with the ECtHR-ruling (article 4:6 of the General Administrative Law Act (Algemene wet bestuursrecht)). If the administrative body refuses to do so, this decision can be challenged before the court. There is no recent relevant case law about this. It is therefore not clear under what circumstances the administrative body is obliged to revoke its decision (if at all).*

4.1. Must the party react within a prescribed deadline?

*See the answer to the previous question (4).*

4.2. If the party has not submitted a request to change the final ruling (that is, for example, to renew the dispute), is the administrative court authorized to react *ex officio*?

*See the answer to question 2.2 in chapter 'I CJEU'. What is said there about decisions of the CJEU also applies for decisions of the ECtHR.*

4.3. In what formation (number of judges) does the administrative court adopt its decisions on amending the final ruling?

*A request for revision is dealt with by a single judge or in a panel of three judges (judgment of the Administrative Jurisdiction Division of the Council of State of 10 July 2017, [ECLI:NL:RVS:2017:2856](#)). The formation in the renewed procedure is dependent on the type of case, but most common it is a chamber of three judges.*



*However, as stated before, Dutch legislation does not provide for a procedure to change a final ruling of an administrative judge due to a different later ruling of the ECtHR.*

4.4. In the case of conflict between a domestic court decision and a newer ECtHR judgment, what kind of procedure is adopted for establishing that the earlier final ruling is not in accordance with the position of the ECtHR? Is there a special procedure adopted establishing that the earlier final ruling is not in accordance with the position of the ECtHR? Are the parties from other administrative disputes authorized to request the change of their final rulings based on the decision of the ECtHR made in another case? Is there a deadline for submitting such a request? How are the positions of parties collected in such a procedure? Is a legal remedy permitted against a ruling of the domestic court deciding the case?

*See the answer to question 2.3 in chapter 'I CJEU'. What is said there about CJEU judgments also applies for ECtHR judgments.*

4.5. In approximately how many or what kinds of administrative disputes in the period 2012 - 2022 was a request for changing the final ruling submitted due to it being conflicting with the position of the ECtHR?

*There are no reliable data about this.*

5. In what types of administrative disputes are violations of Convention rights most often established? Can you provide a reason therefore?

*Most likely in migration cases. One probable reason for this is that migration cases make up almost 60% of the cases decided by the Administrative Jurisdiction Division. Another probable reason is that Convention rights are very frequently invoked in migration cases.*

6. Is there a special body in your country responsible for the execution of ECtHR rulings (apart from the Government as regards just satisfaction afforded in judgments by the ECtHR) and what is its name? If there is such body, what is its composition and its powers (which instruments does it apply to prevent case law of domestic courts from conflicting with the case law of the ECtHR)?

*No. The responsibility for the execution of ECtHR judgments lies with different government departments, depending on the nature of the ECtHR judgment. If, for example, the ECtHR judgment concerns an asylum case, the responsibility for the execution lies with the Immigration and Naturalisation Service. Domestic courts are responsible for preventing that their case law does not conflict with the case law of the ECtHR. They are also responsible for the compensation of procedural flaws in their proceedings, such as exceeding a reasonable period of time to issue a judgment.*

*The Ministry of Foreign Affairs is responsible for informing the Execution Department of the Council of Europe about the execution of judgments.*



7. Has the legislation been changed due to observed conflicts between the case law of domestic courts and the case law of the ECtHR? Please, provide an example!

*When necessary, judgments of the EctHR have resulted in legislative change. For example the judgment Murray v. The Netherlands, 10 December 2013, (ECLI:CE:ECHR:2016:0426JUD001051110) led to a change in the 'Regulation for the implementation of criminal and administrative law decisions' (Beleidsregels tenuitvoerlegging strafrechtelijke en administratiefrechtelijke beslissingen').*

8. Has your country ratified Protocol No. 16 to the Convention (which provides for the possibility of seeking advisory opinions)?

Yes.

8.1. Do you believe that an advisory opinion could prevent the adoption of a ruling by a domestic court that would not be in accordance with ECtHR case law? Explain your answer.

*Yes. Sometimes there is no case law about a certain subject. In other cases the case law can be unclear. An advisory opinion might give guidance to the national court before it issues its (final) ruling. The amount of cases where it would be indicated to ask the ECtHR for an advisory opinion is, however, relatively limited, because often the EU Charter of Fundamental Rights is applicable alongside (one of) the rights from the ECHR. In that situation, it is obligatory to refer questions to the European Court of Justice, which then precedes a referral to the ECtHR. Additionally, if the national court would indeed refer a question to the ECtHR and then provide a judgment, it will be difficult to assess whether that judgment would be different or not in accordance with the ECtHR case law without that referral.*

8.2. Do you have practical experience with seeking an advisory opinion provided for in Protocol No. 16 to the Convention? Provide an example.

*The Administrative Jurisdiction Division of the Council of State has never requested an advisory opinion. Recently the Research and Documentation Centre of the Dutch Ministry of Justice and Security published a report by professor J.H. Gerards and professor A. Buyse on how Protocol 16 ECtHR has been implemented and applied so far in the Netherlands and whether its use can be improved. An English summary can be downloaded at: <https://repository.wodc.nl/handle/20.500.12832/3293>.*



### III CONSTITUTIONAL COURT

1. Is there a Constitutional Court in your country?

*There is no Constitutional Court in the Netherlands. In the absence thereof, all judges of all courts in the Netherlands are competent to conduct constitutional review in the cases that are presented to them.*

1.2. If the answer to the question is affirmative, what are the powers of the Constitutional Court?

*N/A*

2. Does the Supreme administrative jurisdiction have powers similar to those of the Constitutional Court? Please describe the competence/jurisdiction of these two jurisdictions!

*N/A*

3. In the event that the Supreme administrative jurisdiction deems that a provision of the law to be applied in a specific case is unconstitutional, must it initiate appropriate proceedings before the Constitutional Court, or is it authorized to interpret the contested provision taking the Constitution into consideration?

*N/A*

4. What are the possibilities of the parties in an administrative dispute to request the repeal of the final rulings that were made on the basis of a regulation that the Constitutional Court found unconstitutional (in the process of abstract review of constitutionality)? Is there a prescribed deadline for such action?

*N/A*

5. What are the possibilities of the parties in an administrative dispute to request the repeal of the final rulings that are not in accordance with the ruling of the Constitutional Court made in the constitutional action of another person? Is there a prescribed deadline for such action?

*N/A*



#### IV RELATIONSHIP OF THE DOMESTIC SUPREME ADMINISTRATIVE JURISDICTION WITH ANOTHER DOMESTIC SUPREME COURT

1. Is there another supreme jurisdiction in your system?

*Yes, the Netherlands has several other supreme administrative jurisdictions. See above (question I-1).*

2. Please describe the competence/jurisdiction of the two supreme jurisdictions.

*The Administrative Jurisdiction Division of the Council of State is seen as the highest general administrative supreme court. This court settles disputes on legal areas such as spatial planning, immigration law, allowances and disclosure of government information, but handles cases on many other topics too. Each of the other courts that were mentioned in question 1 are competent in more specified areas of administrative law. The Central Council of Appeals is competent in the area of social insurances, social services and civil service. The Trade and Industry Appeals Tribunal deals with all disputes regarding economic administrative law. Finally, the Tax Chamber of the Supreme Court deals with all fiscal disputes.*

3. In general, how is the conflict of different rulings of domestic courts counteracted in your legal system? How is a possible conflict of positions between the (two supreme) jurisdictions counteracted?

*In order to guarantee unity of law and prevent conflict of different rulings of the supreme administrative courts, the Netherlands has a Committee on Legal Unity of Administrative Law (Commissie Rechtseenheid bestuursrecht). Every supreme administrative jurisdiction is represented in this Committee. The Committee meets once every month. In her meetings, the Committee discusses the interpretation and application of general provisions and principles that are relevant to each court. The Committee externally communicates the topics she discusses and also reflects on relevant case-law. This is done by means of an annual report, which is published on the websites of the courts.*

*The precise topics discussed in the Committee are based on the legal questions that arise from pending cases or other current affairs that require adjustment of case-law. For example, regularly questions arise about the assessment of a request for compensation that is given in case of exceeding the reasonable time requirement of article 6 ECHR. Because of this, the topic is also regularly discussed in the Committee. As a result, adjustments in case-law may be made that all courts adhere to.*

*In addition to the coordination in the Committee on Legal Unity, the four administrative supreme courts developed a system of cross-appointment, that allows designated judges from each court to take part in cases from the other courts, especially in cases with issues of common concern. This system allows for exchange of experiences and taking into account each other's perspectives in cases that transcend the jurisdiction of one of the administrative supreme courts.*



*Another important instrument to counteract possible conflict is the possibility of setting up a Grand Chamber. A 2012 Act revising the GALA introduced this possibility, specifically for the purpose of unity of law between the courts. The courts can refer full bench cases to a Grand Chamber when the unity of law or the development of law so requires. Grand Chamber cases are considered by five judges, including judges from at least two but often three or all four last instance courts. In this way, important developments in law take place jointly and in a unified manner.*

*Another form of coordination happens through the conclusions of Advocates-General, which can be requested and consulted by all four courts.*

*Finally, it is worth mentioning that internal legal manuals of a court are often shared with the other supreme courts. These manuals often extensively explain how a legal provision should be explained and applied. This guarantees unity and prevents conflict, too. It also occurs that one of the courts informally consults another court about the interpretation of a specific provision. If possible, the courts also cross-reference each other's case law on shared matters of general administrative law (such as procedural law) .*

4. In your opinion, is conflict prevention possible?

*The Dutch courts believe that the instruments set forth above for the biggest part prevent conflict of different rulings of the supreme courts. Because of the fact that there are accessible ways to coordinate rulings, a lot of conflict can be prevented. The cases in which no legal unity can be achieved are exceptional.*

