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Avosetta questionnaire 2026: The Netherlands

1. Political Situation

Is EU climate policy generally supported or viewed critically in the respective national political context?

It is important to note that last year the political situation in the Netherlands was that the cabinet of prime-minister Schoof resigned and was reduced to a role of caretaking. That cabinet itself was not actively supporting Dutch climate change mitigation efforts. After the elections (29 October 2025) and a few months of negotiations, a new cabinet was installed in January 2026. This cabinet came to a new coalition agreement, called "Aan de slag" (loosely translated as: 'Let's get started', which can be found here (in Dutch). This new cabinet does not have a majority in parliament.
The new government supports European climate policy regarding greenhouse gas emissions. In the coalition agreement, the government states as follows.

> "We are working full steam ahead to meet our climate goals. The 2030 climate goal will be challenging, but we remain committed to that ambition. We will press ahead with the implementation and realization of measures that have already been agreed upon, resolve bottlenecks in implementation, and accelerate breakthroughs wherever possible. By fully committing to long-term policy and a smart European approach, we are doing everything necessary to achieve the climate goals for 2040 and 2050. That is why we are continuing to work at the European level to achieve the climate goals and are also sticking to the climate goals set out in the national Climate Act."

And:

> "In 2026, the European Commission will present proposals for the 2040 package of measures. The Netherlands is committed to an ambitious European package to ensure a level playing field. Once the European measures are adopted, we will align as closely as possible with this approach. In the spring of 2027, we will, if necessary, take additional nationally guaranteed measures to achieve the 2040 target, while keeping affordability and the feasibility of action in mind."

The EU climate policy can generally thus be considered as supported.

How has national climate policy developed in recent years?

The Dutch Climate Act (Klimaatwet) serves as the legal basis for Dutch efforts to reduce CO2 emissions. This legislative act demands that every 5 years a climate plan is adopted for the coming 10 years that has as its goal to achieve the reduction targets that are explicitly stated in the Dutch Climate Act (and refer to article 2 of the EU Climate Act). The most recent climate plan (2025) states how the Dutch government intends to achieve the set targets. An analysis (in English) of the plan can be found here.

One of the biggest discussions recently concerned the abolition of the national CO2 tax/levy. This national carbon tax was introduced in 2021. At the time, the government believed that the EU ETS did not provide sufficient certainty to meet (national) climate targets on time. One of the objectives of the national CO2 tax was to ensure CO2 reductions in an industry that would align with the

applicable industrial target set out in the (Dutch) Climate Agreement (an agreement between many organizations and companies in the Netherlands to combat global warming in 2019), while at the same time keeping the Netherlands attractive for new and existing sustainable business activities. The national carbon tax, and the other national climate measurements, were evaluated by Trionomics on behalf of the Ministry of Finance (see here). This rapport is one of the reasons why the new coalition agreement indicates an intention to abolish the national CO2 tax. It states the following:

> "To enable businesses to invest in sustainability, we are creating a level playing field and implementing a stable, long-term policy. That is why we are abolishing the national CO2 tax and, with a view to ensuring a level European playing field and accelerating electrification and sustainability, are focusing on reducing electricity costs. We are making clear administrative agreements with the industries to ensure the pace of sustainability efforts. When we introduce new policies, we routinely assess their impact on the level playing field with neighboring countries."

The foregoing can be considered as an example of a recent development of the national climate policy. Besides this example, the coalition agreement notes the following intentions:

- "We are expanding the charging infrastructure for electric vehicles and keeping electric driving tax-friendly. We are encouraging the use of car-sharing, bicycles, and public transportation."
- "We work together with Germany and France to establish standards for the use of biofuels in road transport and inland and maritime shipping for the period after 2030. We are also ensuring a level playing field for our transport sector and fuel stations in this regard."
- "We are accelerating the agricultural transition so that the sector also contributes proportionately to achieving climate goals."
- "We are promoting national innovations for negative emissions and carbon removal. We will work internationally to establish a knowledge cluster for Carbon Management."
- "We are working to phase out financial incentives for fossil fuels, and are doing so at European level wherever possible."

What are the prospects for future political developments? What are the key climate policy controversies in the national political debate?

It is difficult to predict future political developments. However, the coalition agreement does indicate a committed approach to stable climate policy with abolition of the national carbon tax.

As noted before, the coalition agreement announced an abolition of the national CO2 tax. This abolition drew some criticism that can be read here (only available in Dutch). The key points are:

- Abolishing the carbon tax will undermine the competitive position of companies that are leading the way in sustainability or are already sustainable.
- Little to no consideration is given to alternatives instead of complete abolition of the national carbon tax.

Besides the abolition of the national carbon tax, the coalition agreement notes a few other guiding principles:

- CO2 storage (CCS) in the North Sea will be necessary, and that is why the government is investing in it through its stakes in CO2 storage and CCU.
- To ensure a domestic supply of clean energy, we will continue to invest in offshore wind power through Contracts for Difference for 40 GW. In addition, we will ensure proper alignment between electricity supply and demand in the industrial sector and improve interconnection with other countries.

- We remain committed to the production of green gas and green hydrogen.
- We are strengthening the nuclear cluster in the Netherlands, accelerating the Small Modular Reactors program, and supporting maritime nuclear innovations.

Another aspect of Dutch climate change policy is the so-called 'tailored agreements approach'. As approximately two-thirds of industrial emissions in the Netherlands originate from the 20 largest industrial companies, the Dutch government in 2024 decided to focus on establishing tailored agreements with these industrial companies. Through these tailored agreements, the government supports these companies in their sustainability efforts beyond any mandatory legal requirements. To qualify for tailored agreements, a company must be able to significantly reduce CO2 emissions. Specifically, this means that by 2030, a company must be able to reduce more CO2 than the reduction path that is already in place and legally enforceable: *additional* CO2 reduction. The aim is a saving of 16 million tonnes of CO2 in 2030 compared to 2021. Progress has been slow.

What has been the role of the Courts in your national context?
The Netherlands is of course well known for the judgements in the Urgenda-case since the judgment of the The Hague District court in 2015 (leading to the judgements of both the Appeals Court in 2018 and the Supreme Court in 2019).
Also relevant is the case of the Dutch Milieudefensie (Friends of the Earth) against Shell. According to Milieudefensie, Shell is acting unlawfully. It believes that Shell is obligated, based on a duty of care, to reduce its CO2 emissions. Milieudefensie and a number of other environmental organizations had demanded that Shell reduce its CO2 emissions by 45% in 2030 compared to 2019. This concerned Shell's own CO2 emissions as well as those of its suppliers and customers (scope 1, 2, and 3). The District Court of The Hague granted Milieudefensie's claim. Shell lodged an appeal. In appeal the Court of Appeal (2024) held that Shell is obligated towards citizens to limit its CO2 emissions. This obligation stems from the human right to be protected against dangerous climate change. It is primarily the government's responsibility to ensure the protection of human rights, but indirectly, those rights also influence the duty of care that companies such as Shell must observe. In assessing whether Shell is acting unlawfully, the Court therefore took as its starting point that citizens also have a right to protection against dangerous climate change vis-à-vis Shell. Nevertheless, the Court rejected Milieudefensie's claims. The reason for this is that the Court was unable to establish that the duty of care entails an obligation for Shell to reduce its CO2 emissions by 45% (or by any other percentage).
On the basis of the judgment Milieudefensie is asking many (boards of) large companies to set up a plan/programme (and send it to Milieudefensie) on reducing CO2 emissions.

2. Overall Climate Policy Targets

Are the EU's overall climate targets (2035/2040/2050) considered adequate / too ambitious / insufficient in national politics? Has the Member State set more ambitious national climate targets ("gold plating")? If so, what additional national targets are being pursued?

In the Netherlands, a national CO2 pricing mechanism has been introduced to supplement the EU ETS in ETS sectors (the industrial and electricity sectors), also because it could be considered insufficient. The pricing mechanism consists of three instruments: a CO2 tax for industry (which Parliament is trying to pause/abolish since June 2025), and a minimum CO2 price for industry and

electricity generation. With this, the Netherlands is one of the few EU member states to have opted to impose additional pricing on sectors that are already effectively priced at the EU level. Despite these additional measures, there is no gold plating according to this study of Trinomics and this study of Panteia (chapter 2.3 Trinomics-study and chapter 2.2 Panteia-study). As mentioned before the pricing mechanism was abolished in 2025.

The Dutch Climate Act sets targets that are in line with EU targets and relies on a continuous process of planning and programming to achieve these targets. More in general the Environment and Planning Act provides instruments for governments in the Netherlands to achieve all goals regarding the environment.

3. Emission Trading System I (Industry)

Is ETS I considered appropriate? If not, what reforms are viewed as priorities from the national perspective?

ETS I considered appropriate:
Several publications have recently been released that evaluate the effectiveness of the ETS I. In an academic article (in Dutch), Woerdman (chair Markets and Regulation at Groningen University) evaluates the functioning of the ETS I from a law and economics perspective. He evaluates the EU ETS Directive from a two-pronged efficiency perspective: does the EU ETS succeed in internalizing climate damage by effectively achieving the targeted emission reductions, and are those reductions achieved at the lowest possible cost? According to him, these questions should mostly be answered in the affirmative.

In another article, Woerdman concludes about emission trading in general that: '*emissions trading schemes are functioning with moderate success and continue to spread across the globe'*.

More recently, the Ministry of Climate and Green Growth commissioned a study (note the executive summary) on the regulatory burden resulting from the ETS I. The investigators concluded that although the system is effective in achieving emission reductions, it also imposes a regulatory burden on companies. This burden, consisting of obligations arising from both European and national regulations, results in costs and time commitments for companies. The study aims to strike a balance between a potential reduction in regulatory burden without significantly compromising the reliability, enforceability, and effectiveness of the ETS. According to the researchers, there is an opportunity for further simplification of the system and improvement of its implementation.

Another study was conducted at the same time on behalf of the Ministry of Finance. This report evaluates the effectiveness and efficiency of the CO2 tax on industry (including the minimum CO2 price for industry) and the minimum CO2 price for the generation of electricity. In essence, the conclusions can be summarized as follows: - The tax together with existing subsidies serve as carrot and stick to achieve additional emission reductions. - There are indications that the CO2 tax has contributed to companies' plans and decisions to reduce their future GHG emissions. The additional pressure from the CO2 tax on companies and the government to become more sustainable benefits the transition to a climate-neutral economy. - Due to the CO2 tax on industry,

the minimum CO2 price for industry has no added value and is therefore not effective. - The minimum CO2 price for electricity generation has so far been very limited in its effectiveness and efficiency.

4. Emission Trading System II (Buildings and Road Transport)

What share of national total energy consumption is attributable to buildings and road transport?

One Petajoule is equivalent to 31.6 million cubic meters of natural gas or 278 million kilowatt-hours of electricity. Data on energy consumption in the Netherlands can be found here (2024):

- Total energy consumption 2024: 2618,4 PJ
- Total energy consumption attributable to buildings in 2024: 321,9 PJ (12,3%)
- Total energy consumption attributable to road transport in 2024: 396,0 PJ (15,1 %)

Data on energy consumption in the Netherlands can however also be found – with slightly different numbers – in the Climate and Energy Outlook 2025 (final energy consumption according to the EED 2023 in petajoules):

- Total energy consumption 2024: 1 728 PJ
- Total energy consumption attributable to buildings 2024: 539 PJ
- Total energy consumption attributable to road transport 2024: 447 PJ

Is the postponement of ETS II to 2028 viewed positively?

The postponement of ETS II to 2028 is viewed neither positively nor negatively. Recently discussion has emerged that postponement is very welcome in light of the already high prices at the gas station.

Are buildings and road transport already part of a national regulatory regime that anticipates elements of ETS II?

The Dutch system consists – next to regulation on energy performance of buildings – of three elements: a CO2 tax on industry, a CO2 minimum price for industry and a CO2 minimum price for electricity generation. This study describes the national regulatory regime in the Netherlands. The study mentions a few elements of ETS II.

One of the activities covered by the EU ETS II, but exempt from the CO2 tax is district heating. Installations that supply heat exclusively to district heating systems are exempt from the CO2 tax. In addition, for industrial installations that supply more than 75% of their generated heat to district heating, the emissions from heat generated for district heating are deducted from the ETS emissions when determining the tax base for the CO2 tax.

Some buildings are covered by the EU ETS II, but exempt from the CO2 tax too. Certain hospitals, universities, and auction houses that fall under the EU ETS are exempt from the CO2 tax.

How are the prospects for decarbonizing the national building and transport sectors assessed?

In this letter, the Minister of Climate and Green Growth informs Parliament about the progress of the implementation of the EU ETS II. In 2025 several Member States and stakeholders expressed their concerns about significant uncertainties regarding future price levels and price volatility in the EU ETS II. On November 27 and December 8 2025, the European Commission published proposals to enhance price stability and predictability in ETS-2. These proposals are part of a package of measures announced on October 21 by European Commissioner Hoekstra in response to a non-paper from the Czech Republic about the concerns, supported by 20 member states, including the Netherlands. The non-paper can be found here.

On the other hand the Dutch government plans to use the opt-in to bring all fossil fuels not yet covered by the ETS into the new ETS II. The opt-in will broaden this to include other forms of fuel consumption in primary agriculture, such as the heating of greenhouses and stables, and the fuel consumed by agricultural machinery and vehicles and fishing vessels. This study describes the consequences of the planned opt-in.

The prospects for decarbonizing the national building and transport sectors are assessed positively, but there are certain concerns that can not be denied. It is expected that energy and fuel suppliers will pass on the costs they will incur to purchase the necessary emission rights (in full) to the end customer.

5. Double regulation?

Is there a discussion about the topic of double regulation: e.g. energy efficiency in ETS installations / build environment, National taxes on/pricing of CO2 emissions, Emission Limit Values in environmental permits?

Although there is a general discussion about regulatory burden. And that discussion also culminated around the foreseen burdens for corporations in relation to the CSRD and CSDDD, there seems to be (as far as I know) hardly any debate about double regulation at the moment concerning ETS and other regulatory frameworks. In the past the CO2 tax and the ETS were considered a form of double regulation (with the result that for installations covered by the EU ETS, the ETS price for CO_2 is deducted from the tax).

No CO2 emission limit value for IPPC installations that is also an ETS installlation shall be a requirement for operating the installation (art. 9 IED). One aspect might however be mentioned here. For years energy efficiency was required of all regulated installations (permit or otherwise) but not for ETS installations (based on the idea of double regulation and on the option in art. 9(2) IED) but from 1 July 2023 this requirement, that demands any operator to invest in the implementation of measures of energy efficiency (and change to a sustainable energy source) that could be gained back in 5 years, is required of ETS installations as well.

6. Effort Sharing

Is the Member State "on track" to meet its national reduction targets under the Effort Sharing Regulation 2018/842?

Under the Effort Sharing Regulation (ESR), the Netherlands has a maximum cumulative emissions budget of 829 megatons of CO2 equivalents for the period 2021–2030. This target is based on a 48 percent reduction in emissions by 2030 compared to 2005. This yearly study presents a Climate and Energy Outlook over the year 2024. The researches came to the following conclusions about the targets under the ESR:

> *"With the current and proposed policies, the probability of achieving the cumulative reduction target is over 95 percent. This means there is a very high probability that the Netherlands will meet the target. Under these policies, the expected cumulative emissions for 2021–2030 amount to 800 [781–819] megatons of CO_2 equivalents. Based on the adopted and proposed policies and the policies on the agenda for which an impact assessment could be made, the cumulative emissions in this Climate and Energy Outlook 2024 amount to 783–821 megatons of CO_2 equivalents. This is slightly higher than based solely on the adopted and proposed policies. This is due to the opposing effects of planned measures in the built environment, mobility, and agriculture. Nevertheless, there remains a more than 95 percent chance that the target will be met."*

The Climate and Energy Outlook over the year 2025 is even more positive about meeting the national reduction targets under the ESR. The researchers came to the conclusion that the chance of meeting the target is more than 95 percent:

> *"The cumulative emissions in the baseline scenario amount to 800 [781–816] megatons of CO2 equivalents. This is the sum of the actual annual emissions from 2021 through 2024 and the projected ESR emissions between 2025 and 2030, based on the policies in the baseline scenario. The difference between the cumulative emissions and the maximum allowable emission space results in a surplus of emission allowances of 28.4 [12.4–47.7] megatons of CO2 equivalents (see Figure 2.4 and Table 2.3). The probability that emissions will remain below the limit of the maximum allowable emission space is greater than 95 percent. It is therefore highly likely that the ESR target will be met."*

I feel the need to emphasize that this positive outlook on achieving he ESR target is not reflected in the overall assessment of the Climate and Energy Outlook 2025 which provides in de summary as follows:

> "With a probability of less than 5 percent, it is highly unlikely that the Netherlands will meet the statutory climate target of a 55 percent emission reduction by 2030. With the current detailed policy as of January 1, 2025 ('baseline scenario'), we are heading towards 45 to 53 percent lower greenhouse gas emissions in 2030 than in 1990. Other calculable plans ('supplementary policy') add a little less than 2 percentage points to this: a 47 to just under 55 percent reduction. This places the target outside the range. As a result, the probability of achieving the target is less than 5 percent."

Is failure / compliance / over-achievement of the EU requirements expected?

The probability that emissions will remain below the limit of the maximum allowable emission space is greater than 95 percent.

What are the main challenges or success factors influencing compliance or non-compliance with the EU requirements?

One of the challenges influencing the compliance with the EU requirements is the deterioration of the investment climate for emissions reduction. The reason for this can be found in various developments, such as the changes in economic and geopolitical circumstances. Besides that, the concerns of stakeholders according to licensing and infrastructure for renewable energy are also reasons for the deterioration of the investment climate for emissions reductions. As a result of that, the energy transition is stagnating. Fundamental policy is necessary to get the energy transition back on track.

More specific about the ESR targets this study shows the following challenges influencing compliance with the EU-requirements:

> *"In the early years of the ESR, 2021–2023, greenhouse gas emissions were relatively low. This was due to lower energy consumption, partly as a result of the COVID-19 pandemic and the high gas prices caused by Russia's invasion of Ukraine. These years offset the projected higher consumption in the later years of the ESR. In the years 2026–2030, we estimate that ESR emissions will be around the annual emission caps."*

Does the state intend to sell its own emission credits or to purchase such credits from other Member States?
Based on the updated forecast for established, intended, and scheduled policies in the Climate and Energy Outlook 2023, emissions under the ESR of 794-834 megatonnes of CO2-eq are expected for 2021-2030. This amounts to a cumulative surplus of 39 to a deficit of 1 megatonne of CO2-eq. Selling credits is not mentioned in the Climate and Energy Outlook 2025; it does refer to the possibility to compensate with land-use credits.

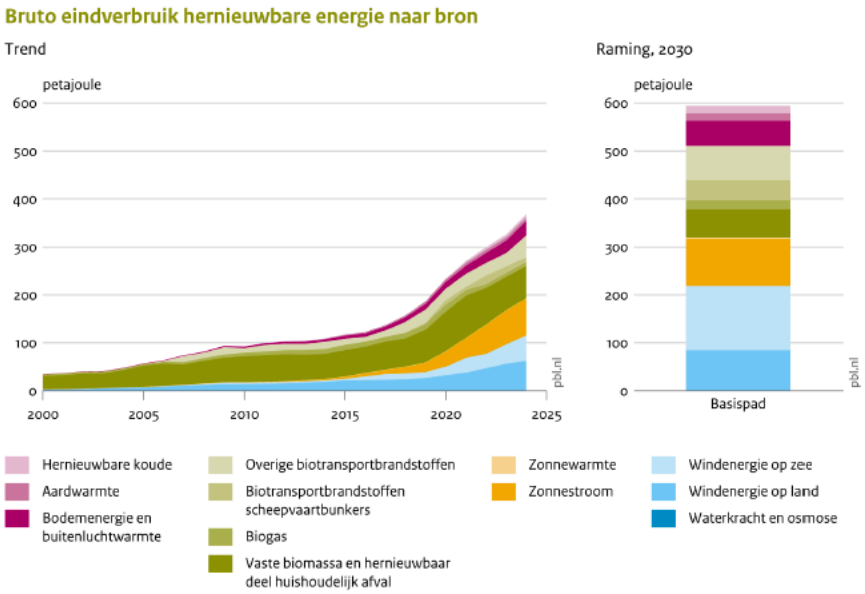
7. Renewable Energy

In 2024, 20 percent of gross final energy consumption in the Netherlands consisted of renewable energy; this is nearly 3 percentage points higher than in 2023 and more than double compared to 2019. The increase in 2024 is mainly due to more offshore wind turbines and a doubling of the use of biodiesel for road transport.

In the Climate and Energy Outlook 2025 forecast, a share of renewable energy of 32 [29-36] percent is projected in the baseline scenario for 2030. The target for the Netherlands of 39 percent falls outside the range of the forecasts. Consequently, the probability of achieving this renewable energy target in 2030 is less than 5 percent. As 2030 approaches, achieving the target is becoming increasingly out of reach. This is because investments in renewable energy projects typically require a long preparation time. Therefore, policy measures that are not introduced until after 2026 will contribute only a limited amount to the share of renewable energy in 2030. To meet the targets in 2020, a statistical transfer of 49 petajoules of renewable energy took place between Denmark and the Netherlands. The costs for this transfer amounted to 170.6 million euros (2022). A statistical carryover may also be necessary to achieve the 2030 targets. Renewable energy use grows from 358 petajoules in 2024 to 594 [519 - 642] petajoules in 2030. Total gross final consumption rises from 1,807 petajoules in 2024 to 1,842 [1,691,932] petajoules in 2030. The range for the estimate of renewable energy use in 2030 is determined primarily by uncertainties in the realization of offshore wind energy projects. Almost half of the increase in the share of

renewable energy until 2030 is attributable to the increase in wind energy, particularly offshore. In addition, based on the forecast, we expect growth in the use of biotransport fuels, solar power, heat pumps, geothermal energy, and biogas production (via fermentation and gasification of manure and biomass). Electricity production using biomass is declining, while heat production using biomass remains approximately constant.

The energy mix in 2025 and the outlook towards 2030 is summarized in figure 3.5 of the Climate and Energy Outlook 2025 (see below in Dutch).



An important instrument in the energy transition is the Dutch system of subsidies for sustainable energy (SDE++). Other instruments include legislative efforts to accelerate both procedures of decision-making and judicial review concerning renewable energy projects. Interesting is also new legislation to facilitate the (mandatory) transition towards district heating in the built environment.

8. Land Use

How exactly are emissions from the land-use sector recorded nationally? What trends can be derived from this data? What strategies are being pursued at the national level to strengthen the land-use sector's contribution to emission reductions and to comply with the LULUCF-Regulation 2018/841?

The Climate and Energy Outlook over the year 2025 shows the recent developments according to the compliance of the LULUCF-Regulation 2018/841. The researchers concluded that:

- In 2024, emissions from land use were lower than average, because of the new data retrieved from the Dutch Forest Inventory (NBI). The study can be found here.
- The emissions from the land-use sector will be more or less consistent until 2030. After 2030 these emissions will slightly decrease.
- It is unlikely that the national residual emissions target will be met; there is a small chance that the European target will be met.

- The emissions from the land-use sector decrease only slightly because of supplementary policy. The local governments are working on the continuation of the National Program for Rural Areas (NPLG). Provinces already received funding for this continuation (Ruimte voor Landbouw en Natuur). Nevertheless, uncertainty regarding the funding and further details of the approach is causing delays.

9. Special National Strategies, Programmes, and Ideas

What special strategies, regulatory programmes, and ideas—beyond those already mentioned—are being pursued nationally for climate mitigation? How do these national concepts and legal instruments relate to EU climate policy? Does a programme for carboncapture and storage exist?

Two major permits were granted for CCS offshore, named after two of the musketeers: Porthos and Aramis. Porthos and Aramis have been recognized by the European Union as a Project of Common Interest.

10. Social and Regional Compensation Mechanisms

Are there national mechanisms to provide social or regional compensation for the burdens arising from climate protection measures? Is any form of "climate dividend" or "climate payment" being issued?

A just transition is the goal of the Netherlands energy transition. On that basis and based on the Dutch Climate Agreement local governments have been keen to introduce guidelines for financial participation of project developers ('financial participation shall be possible for locals' and '50% of renewable energy projects shall be locally owned'). A legal basis for mandatory financial participation / local ownership of renewable energy projects is however lacking. In practice agreements between the sector (wind parks / solar farms) and governments have resulted in schemes that mostly aim to introduce a so-called financial (community benefit / environment) fund (filled with financial means by the developer) that spends money on selected projects that improve the environment surrounding the project and/or the local community and allows locals to participate in selecting such improvements. Recently a similar agreement between sector and government was formed in the gas and salt exploration sector.

11. Adaptation

Are there national programmes for climate adaptation? How can these be briefly described? Should the EU, from a national perspective, develop climate adaptation programmes, or should this remain the responsibility of the Member States?

NAS 2016

The National Climate Adaptation Strategy (NAS) of 2016 was the Netherlands' response to the European Commission's call for all member states to develop a climate adaptation strategy by 2017 at the latest. In 2022, the NAS was evaluated at the request of the Ministry of Infrastructure and Water Management. This evaluation can be found here.

NUP-KA ’23

To accelerate the implementation of the NAS, the National Climate Adaptation Implementation Program was launched in 2023, the NUP KA 2023. The NUP KA 2023 outlines the approach for the coming years and identifies the additional measures needed to accelerate progress. A few examples:

- The Netherlands must take sea-level rise, increasing heat, longer periods of drought, and more extreme precipitation into account in every development project.
- The policy to make the Netherlands climate-resilient in time must be smarter, more intensive, and more inclusive.
- Clear and concrete goals are needed to formulate policy and take action.

LIFE-IP Climate Adaptation (2022-2027)

LIFE IP is a Dutch program co-financed by the European Union (EU). It builds on the National Climate Adaptation Strategy (NAS 2016). A consortium of 23 government agencies and organizations is implementing the program. The goal of the actions and projects is to improve the Dutch climate-resilience. Coordination is handled by the Ministry of Infrastructure and Water Management (IenW) and the National Institute for Public Health and the Environment (RIVM). It focuses on 18 concrete ideas for adaptation in large urban areas, relevant regions and on knowledge building on behalf of governments in the Netherlands.

12. New liability/compensation regime in the Air Quality Directive (2024/2881) and the amended IE Directive (2024/1784)

The new Air Quality Directive 2024/2881 (art. 28) and the amended IE Directive (2024/1785) requires Member States to establish a liability/compensation regime regarding persons suffering damage to human health caused by violation of the EU-obligations under the two directives (also see here for a comparative study on the proposed text). The new EU-obligation should be seen in light of the CJEU-ruling in C-61/21 in which the CJEU rejected Member State liability for human health damage based on the (old) Air Quality Directive. The new obligations place Member States as the one who should pay compensation for the damage, but the legal implications of the new regimes are not entirely clear. ***How is the new obligation on liability/compensation in the new Air Quality Directive and the amended IE Directive intended to be implemented in your Member State?***

Implementation of the new Air Quality Directive is in progress. The directive must be fully implemented by December 12, 2026. For now, it appears that this deadline can be met. The State Secretary for Infrastructure and Water Management has introduced a legislative proposal that contains technical modifications to the Environment and Planning Act and the General Administrative Law Act. An executive order is currently being drafted that includes amendments to the Decree on Environmental Quality (Besluit kwaliteit leefomgeving) and the Environment Decree (Omgevingsbesluit). That decree – together with an amendment to the Environment Regulation (Omgevingsregeling) – consists of the substantive implementation. The legislative proposal that introduces technical modifications was sent to the Advisory Division of the Council

of State for advice, evaluation and recommendation. The proposal had received a positive review and was sent to the House of Representatives.

Article 28 of the new Air Quality Directive 2024/2881 introduces a compensation regime regarding persons suffering damage to human health caused by violation of the EU-obligations under the directive. The national rules and procedures relating to this compensation must not make it impossible or excessively difficult to obtain this compensation. Due to the principle of procedural autonomy, it is up to the Member States themselves to determine which court private individuals may approach for compensation. Article 28 of the new directive refers directly to article 19 and 20 of the directive, which may indicate a link between the compensation and deficiencies in air quality plans. If the review of air quality plans and related compensation falls under the jurisdiction of the administrative courts, this article questions whether these courts have sufficient legal basis to award the compensation (article 8:88 GALA). In addition to administrative court proceedings, there may be opportunities to claim damages in civil court, based on article 6:162 of the Civil Code (onrechtmatige daad). However, since Article 28 establishes a direct link to the obligation to draw up air quality plans, this may be difficult according to this article of Plambeck and Squintani. For example, due to the requirement of a causal link between the deficient air quality plan and the health damage. At this moment it is hard to say how the new obligation on compensation in the new Air Quality Directive and the amended IE Directive will be implemented in Dutch Law but most likely compensation may be claimed in civil court.