

Firstly, the fundamental freedoms as protected by the Constitution of the Netherlands such as the exercise of the right to freedom of expression, the rights to freedom of association, the right to peaceful assembly and the political freedom also apply to judges as they are Dutch citizens.
However, in the exercise of their work as a judge some differences are applicable.

The judicial position of the judges is regulated in the law on the position of judges: “Wet Rechtspositie rechterlijke ambtenaren, Wrra (1996)”. In this law a distinction is made between trainee judges and judges.

In art 43 Wrra trainee judges (and judges that are not appointed for life) will not express their thoughts or feelings, or exercise their right to freedom of association, the right to assembly and to manifestation when by exercising these rights the functionality of the judiciary is at stake. However, trainee judges are allowed to be a member of a political party or a judges association. These restrictions do not, however, apply to judges who have been appointed for life.

No distinction is made in the law regarding on- or offline activities.



Recently, there is one example wherein a judge was given a written warning by the President of the Court (a disciplinary measure). In reaction to the nomination of a rightwing politician to ‘Dutch politician of the year’, a judge tweeted “completely crazy”. The judge then deleted her Twitter account upon her own initiative. After criticism on the decision of the court to restrict the judge in her expression of opinion the Court replied that there cannot be any doubt on the impartiality of a judge .

 

In the Guidelines for impartiality and ancillary positions in the judiciary (2014) principles are defined on the exercise of fundamental freedoms. These Guidelines were set up by the NVvR (the Dutch Association for the Judiciary). No distinction is made between the on- or offline activities.

**Principles**

Like anyone else, the judge has certain views regarding social, political, and ethical matters, which may influence his further judgments. In part, these conceptions can be related to sex, race, color, language, religion, political or other opinion, national or social origin, belonging to a national minority, property, birth, or other status (compare Article 14 ECHR). The existence of these conceptions is unavoidable and is closely related to the social engagement and interest that are necessary to be able to function as a judge.

Like any other citizen, a judge is entitled to exercise freedom of speech, religion, association, and assembly, but a judge must always conduct himself in such a way when exercising these constitutional rights that he does not prejudice his functioning as a judge or the functioning of the judiciary (cf. The Bangalore Principles of Judicial Conduct, No. 4.6). The following illustrates how this could cause tensions. There are judges and substitute judges who publish and write annotations. Yet

it does not seem desirable that a judge or substitute write articles about, or annotate judgments of, his own court, or that he advise or give public comments in respect of those judgments. In the case of appellate judges, the foregoing also applies to judgments in a lower instance that may be submitted to their own court.

A judge who is aware of his personal views must generally be able to distance himself from them in such a way that these views do not impede his independence and impartiality, which are the essence of a fair proceeding.

It is the judge himself who will be vigilant of his impartiality in any case that he hears. Additionally, the courts have means at their disposal to promote impartial justice, such as division in sections and assigning cases. The judge will see to it that he evidences an impartial

attitude during sessions.



See the answer under question 1.



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**See the answer under 3.**

In general it is difficult to make a distinction between the venue and capacity in which opinions are given. The context will not be relevant.

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**N/a.**

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No such initiatives were undertaken by NVvR. However, some courts have made internal regulations on the use of social media.