

The Netherlands

Self-rule

INSTITUTIONAL DEPTH AND POLICY SCOPE

The Netherlands has one intermediate tier of governance: *provincies*.¹ The local tier is composed of *gemeenten* (municipalities).² Since the 1960s there has been a debate about grouping *provincies* or *gemeenten* in larger regions, and two reforms have been passed into law: the *Openbaar Lichaam Rijnmond* ('Public Authority Rijnmond') between 1965 and 1986 and ten *plusregio*'s between 2006 and 2015 (Boedeltje and Denters 2010; Boogers 2018).

There are currently twelve *provincies* (eleven until 1986). The principle of provincial and municipal autonomy was entrenched in the 1815 constitution which grants provinces and municipalities a general right to run their "own household" under central supervision (C 1815, Arts. 123–132; Hendriks 2001*b*; Law No. 5416/1992 and No. 5645/1992). Until 1980, *provincies* shared authority with local governments in economic policy, transport, infrastructure, investment policy, and regional planning.

From 1980, provinces gained competences in social policy, including housing, culture, and leisure, and acquired a role in environmental planning and urban development (Council of Europe: the Netherlands 1999, 2008, 2014; Fleurke and Hulst 2006; Hendriks 2001*b*).^α However local governments are the senior partners in the relationship (Committee of the Regions 2005). *Provincies* are also responsible for financial oversight of local governments. In 1994, a revision of the law on provinces abolished ex ante central control and limited central government supervision to ex post legality controls (Law No. 5645/1992, Art. 253). The minister for internal affairs has powers of substitution if a *provincie* fails to take decisions deemed mandatory by the central government (Law No. 5645/1992, Art. 121). Since the 2000s, provinces are under threat because of increasing inter-municipal collaboration³ and because of reforms such as the transfer of

¹ We exclude the (former) overseas territories of Aruba, Bonaire, Curaçao, Saba, Sint Maarten, and Suriname. The capital city of Amsterdam has no special status and is governed by the same regulations as other municipalities in the Netherlands (Council of Europe: the Netherlands 2014). Every municipality in the Netherlands could establish sub-municipal districts but only the cities of Amsterdam and Rotterdam were divided in respectively seven and fourteen districts (Law No. 5645/1992, Art. 87). Each district had their own council with independent competences and their own budgets and civil servants. After the March 2014 municipal elections, the sub-municipalities were abolished and replaced with non-elected 'administrative committees' with less powers and tasks (Council of Europe: the Netherlands 2014; Law No. 1992, Art. 83).

² Besides *gemeenten* and *provincies* the country is divided in *waterschappen* (water boards) which are established by the *provincies* with approval of the central government and which can levy tax (Law No. 5108/1991). Direct elections of the boards of *waterschappen* have taken place since 1995. *Waterschappen* are specialized in regulating the water level, the purification of water, and in some cases nature conservation (Zwaan 2017: 230–231). We consider these to be task-specific rather than general purpose governance.

³ Several inter-municipal collaboration entities take care of specific policies such as mobility and transport,

responsibility for disaster management from the head of the province (King's Commissioner) to one of the mayors of the constituting municipalities and the transfer of youth care from the provinces to the municipalities which involved a loss of about 25 per cent of provincial revenues (Council of Europe: the Netherlands 2014; de Vries 2004, 2008, 2016; Groenendijk 2017; Law No. 34925/2014).

The *Openbaar Lichaam Rijnmond* was established in 1965 and covered the city of Rotterdam and 23 surrounding municipalities which collectively had about one million inhabitants (Bink 1987; Law No. 13229/1964; Toonen 1993). Its tasks included spatial planning, roads, water roads, and transport and, since 1980, also health care, education, firefighting, and labour market (Bink 1987). The province of *Zuid-Holland* decentralized tasks in environmental protection (since 1970) to the *Rijnmond* region and recreation was shifted upwards from the municipalities. The constituting municipalities had an obligation to implement policy decided by the *Rijnmond* region (Bink 1987). The *Openbaar Lichaam Rijnmond* had a directly elected council of eighty-one members who elected a board consisting of six members. In February 1986, the *Openbaar Lichaam Rijnmond* was abolished (Law No. 3919/1986; Toonen 1993) because of competition with the province of *Zuid-Holland* and the city of Rotterdam (Bink 1987; Council of Europe 1996: 118–121; Council of Europe: the Netherlands 1999).

A revision of the law on municipal cooperation in 2005 introduced city-regions (*plusregio*) (Council of Europe: the Netherlands 2008; Law No. 16538/1984, Arts. 104–123). A city-region combined one (very) large city with its smaller surrounding municipalities. Eight *plusregios* were established in January 2006 which involved 109 municipalities that collectively governed over about 6.8 million inhabitants (40 per cent of the total population). The *plusregio* had mandatory tasks which mainly involved the development of a regional economic development plan that included tasks in spatial planning, regional economy, and tourism (Arendsen 2014: 270; Law No. 16538/1984, Art. 118). Municipalities were required to implement the decisions of the city-region and the central government could force non-willing municipalities to join a city-region. Municipalities could transfer municipal competences to the city-region and all city-regions were made responsible for mobility, public transport, and environmental protection. The council of the city-region was indirectly elected by the assemblies of the participating municipalities and the city-region council elected the city-region executive. After their abolishment in January 2015, the city-region competences were transferred back to the municipalities and provinces (Zwaan 2017: 235–237). Many municipalities that were part of the city-regions established voluntary inter-municipal organizations to collaborate on transport, mobility, and economic development (OECD 2016: 144–153).

housing, industrial areas, employment, youth care, and social care for the elderly, handicapped people, and people with mental problems. Such task-specific inter-municipal collaboration can take different forms and can involve concluding a collaboration agreement, transferring responsibilities to a central municipality, or establishing a formal organization with a board and executive (Council of Europe: the Netherlands 2014; de Vries 2016; Law No. 16538/1984; OECD 2016).

FISCAL AUTONOMY

Provincies have some authority over minor taxes. They collect fees on water pollution, a ground water tax, a surcharge on the television and radio license fee, and a surcharge on motor vehicle tax (Council of Europe: the Netherlands 1999, 2008; Law No. 5645/1992, Art. 222–222a). *Provincies* can adjust the rates for these taxes up to a maximum fixed by the central government. Central grants account for over 90 percent of provincial revenues. Such grants are either unconditional contributions from the *provinciefonds*, in which the central government deposits a share of annual income taxes, or are conditional grants for public transport, youth policy, and the environment.

The *Openbaar Lichaam Rijnmond* could set a surcharge on the property tax rate of maximum one guilder per inhabitant (Bink 1987; Law No. 13229/1964). The *plusregios* were financially completely dependent on transfers from central and provincial government as well as the participating municipalities (Law No. 16538/1984).

BORROWING AUTONOMY

Control over provincial activities by the central government is of two kinds. Preventative (*ex ante*) control extended to the approval of tax laws, budgets, accounts, and borrowing until a 1992 reform (in force since 1994) which limited *ex ante* control to provinces that transgressed the balanced budget rule (Law No. 5645/1992, Art. 207; Harloff 1987). Since 1994 borrowing is permitted to finance capital investment, and interest payments as well as depreciation must be accommodated within a balanced current budget (Council of Europe 1992; Council of Europe: the Netherlands 1999, 2014). Provincial borrowing may be limited *ex ante* if the minister of finance is concerned about the extent of provincial spending (Council of Europe: the Netherlands 2008).

The *Openbaar Lichaam Rijnmond* and the *plusregios* did not have borrowing autonomy.

REPRESENTATION

Direct elections for the provincial assembly take place every four years (C 1815, Art. 129). The head of the executive, the King's (formerly Queen's) Commissioner, is appointed by the central government on the provincial assembly's nomination (C 1815, Art. 131; Law No. 5645/1992, Art. 61). The provincial assembly elects the remaining members of the executive (Arendsen 2014: 272–273; Council of Europe: the Netherlands 2014; Law No. 5645/1992, Art. 35).

The *Openbaar Lichaam Rijnmond* had a directly elected assembly with eighty-one members (*Rijnmondraad*) and a dual executive (*dagelijks bestuur*) consisting of six deputies elected by the assembly with a chair (*voorzitter*) appointed by the central government (Bink 1987). The council of the *plusregio* (*algemeen bestuur*) was elected by the assembly members and mayors of the participating municipalities and the city regional council elected the executive which consisted of an executive board (*dagelijks bestuur*) and a chair (*voorzitter*) (Law No. 16538/1984, Arts. 12–14).

Shared rule

The *Openbaar Lichaam Rijnmond* and the *plusregios* did not have power sharing but *provincies* exercise shared rule.

LAW MAKING

The Netherlands has a bicameral system in which the upper house (*Eerste Kamer*) represents provinces. Senators in the upper house are elected by members of the provincial assemblies drawn from national party lists submitted separately in each province (*L2, L3*) (C 1815, Art. 55; Council of Europe: the Netherlands 2014). Each provincial delegate casts a vote for a candidate, and his or her vote is weighted by provincial population so that the final distribution of seats across provinces is proportional to their populations. Before 1983, the members of the provincial assemblies elected a third of the members of the senate every two years. Since 1983, the elections have taken place every four years following provincial elections (C 1815, Art. 52.2). The upper house has a veto on all legislation (*L4*) (C 1815, Arts. 81–87).

EXECUTIVE CONTROL

Provincies have no executive control.

FISCAL CONTROL

The *Eerste Kamer* has an up or down vote on the annual national budget, which provides *provincies* with a collective veto over the distribution of tax revenues. There are no intergovernmental meetings between provinces and the national government.

BORROWING CONTROL

Provincies have no borrowing control.

CONSTITUTIONAL REFORM

The upper chamber (*Eerste Kamer*) has a veto on constitutional amendments (C 1815, Art. 137.4). Constitutional change requires two rounds of voting, separated by new elections (C 1815, Art. 137). The threshold in the second round is a two-thirds majority (C 1815, Art. 137.4).

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Self-rule in the Netherlands

			Institutional depth	Policy scope	Fiscal autonomy	Borrowing autonomy	Representation		Self-rule
							Assembly	Executive	
Provincies	I	1950-1979	2	1	1	1	2	1	8
	I	1980-1993	2	2	1	1	2	1	9
	I	1994-2018	2	2	1	2	2	1	10
Openbaar Lichaam Rijnmond	II	1965-1985	2	1	1	0	2	1	7
Plusregios	II	2006-2014	2	1	0	0	1	2	6

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Shared rule in the Netherlands

		Law making						Executive control		Fiscal control		Borrowing control		Constitutional reform		Shared rule
		L1	L2	L3	L4	L5	L6	M	B	M	B	M	B	M	B	
Provincies	1950-2018	0	0.5	0.5	0.5	0	0	0	0	2	0	0	0	4	0	7.5
Openbaar Lichaam Rijnmond	1965-1985	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Plusregios	2006-2014	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

National legislature has: L1 = regional representation; L2 = regional government representation; L3 = majority regional representation; L4 = extensive authority; L5 = bilateral regional consultation; L6 = veto for individual region. Total for shared rule includes the highest score of either multilateral (M) or bilateral (B).

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