



**DSP**

# Under Pressure

*Summary*

Exploratory research into intimidation of local political office holders and government employees through legal procedures

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# Summary

## Investigating intimidation through legal means

Dutch law provides various legal procedures to protect citizens' rights against wrongful actions by public bodies. In the event of incorrect treatment or an unjust decision, citizens can initiate procedures to rectify the situation. These include, for example, administrative, civil and criminal law procedures, complaint mechanisms and Wob or Woo requests (Wet openbaarheid van bestuur, replaced on 1 May 2022 by Wet open overheid).

However, these legal means can also be used improperly and deployed as a means to intimidate administrators and government employees (Boswijk, 2021; Klein Kranenburg et al., 2020a). This is a relatively new phenomenon: intimidating political office holders and government employees through the use of legal means.

Commissioned by the WODC (Scientific Research and Documentation Centre) and at the request of the Dutch Ministry of Justice and Security, DSP-groep and I&O Research jointly researched this phenomenon. Based on a survey completed by 1,840 respondents (604 administrators and members of parliament, 1,115 government employees and 121 government organisations) and 26 interviews (with 16 experts by experience<sup>1</sup> and ten experts on the subject), we gained more insight into intimidation by legal means. In doing so, we addressed the following central question:

*What is the nature and extent of intimidation against decentralised political office holders and government employees through legal means, (how) is this phenomenon being dealt with, and how (additionally) could it be dealt with?*

In this study, we defined intimidation as 'behaviour that instils fear in the victim'. In the afflicted person, the other person's behaviour must evoke a feeling of insecurity before intimidation can be said to exist. Intimidation is thus (in this study) subjective by definition. It means that what may be intimidating to one person may not be intimidating to another. It does not concern the intention of the 'sender' (here: litigant). Intimidation can take different forms by sending a 'signal' to the affected person: provoking, blackmailing, pressuring.

The present summary provides the main findings of the study.

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<sup>1</sup>Political office holders and government employees who have experienced intimidation through legal means.

# Conclusions

## Nature and scope

Political office holders and government employees do not believe that legal procedures are abused in large numbers. Citizens generally deal with legal procedures fairly, exercise their rights and present good arguments. However, in some cases, government employees experience the procedures as intimidating and feel that citizens intend to intimidate them. For instance, in several cases, litigating citizens or citizens threatening to litigate, with intimidation as an effect, actively indicated that they expected a particular political decision, and if that decision was not made, procedures would undoubtedly follow.

In this survey, 7% of all political office holders said they had experienced intimidation in the past year by (the threatening of) the use of legal proceedings. Among government employees, the figure was 10%. Because of the relatively low response rate in this survey and the related possible selection bias, there may have been an overestimation (those who have experience with this are more likely to respond), and these results should be read with some caution. Several interviewees feel that intimidation through legal means is a growing phenomenon. According to the respondents, there is an increase in the use of legal proceedings, which are used more often to intimidate. Office holders and civil servants are nowadays possibly more likely to feel intimidated than before. However, this cannot be substantiated with figures, as this study is the first quantitative study of this phenomenon.

### **What makes the use of legal proceedings intimidating?**

Aspects that can make proceedings, or the threat of proceedings, intimidating are the - sometimes overwhelming and unreasonable - frequency and quantity of requests, whether combined or not, and sometimes over an extended period of time. The attitude of those submitting the procedures also contributes (playing on the person, use of language), as does making unreasonable requests (intimidation) and, finally, the combination with (other forms of) aggression and violence. The combination of aggression and violence occurred regularly and reinforced the feeling of being intimidated, according to the local political office holders and government employees.

## Litigants and their (perceived) motives

Political office holders, government employees and experts see different types of litigants by whom they felt intimidated: individual angry/frustrated citizens and entrepreneurs, agencies and entrepreneurs who see a revenue model in litigation, action groups, (drug) criminals and local politicians. Almost all litigants who evoke a sense of intimidation from public officials can be characterised as frequent litigants, sometimes using multiple forms of proceedings and involving other forms of aggression, violence, or the press. In doing so, we note that legal proceedings are mainly used by citizens (three-quarters) and entrepreneurs (one fifth), and only in exceptional cases is the petitioner suspected of being involved in organised crime or undermining.

Political office holders, employees and experts mentioned various alleged motives for using legal procedures that led to intimidation. These are exerting pressure on decisions, bullying the government and frustrating processes, idealism, wanting to be right as part of a 'way of life', continuing criminal activities, making money and playing political games. We did not interview any litigants in this study, so it cannot be determined whether these were the motives and whether intimidation was also the intention of these citizens.

## Consequences for individuals and organisations

The consequences of intimidation through legal means that political office holders, employees, and their organisations may experience are varied. Notably, consequences were absent for many political office holders and employees who experienced intimidation through legal means: 70% of political office holders and 50% of civil servants did not experience any personal consequences. The survey shows that these individuals find dealing with procedures part of their job and know how to keep their personal distance from it.

Contributing to citizens' right to litigate is generally seen as a great good by political office holders and employees. Personal consequences that people do experience in occurring cases are increased workload, stress and reduced job satisfaction. In several cases, individuals have left office due to intimidation through legal means. Particularly in combination with other forms of violence or intimidation, other personal consequences may occur (such as fear and concern for safety, including those of family members). In those cases, however, the consequences are no longer exclusively linked to the phenomenon of 'intimidation by legal means'.

At the organisational level, intimidation through legal means leads, among other things, to delaying decision-making processes (31% of organisations). Delay can lead to postponement or modification of decisions (15% of organisations). As a result, the workload of government organisations increases and sometimes gets stuck, preventing them from adequately carrying out their full range of activities. An additional consequence for organisations is the high financial costs for in-house staff, hiring external staff, penalties and fees for lost court cases that this form of intimidation can entail. Respondents say these are also why threatening such proceedings makes sense: the consequences can be felt.

## Measures

Currently, government organisations do not have a separate policy to counter intimidation by legal means or its consequences. In some cases, intimidation by legal means is part of dealing with (other forms of) aggression and violence against administrators and government employees. The study shows that little aftercare is provided to those who experience intimidation through legal means. However, the need for it is not that great either.

## Discussion: different perspectives

The study was initiated partly based on the idea that aggression, violence and intimidation towards political office holders and government employees have increased over the years, as has the political-administrative attention to undermining and the commitment to a resilient government. However, based on the research, the extent of intimidation by legal means currently appears limited. Nevertheless, due to its impact on individuals, organisations and society (through the media), it should not be seen as a negligible problem.

Before making suggestions based on the research findings, we should consider intimidation by legal means within the following context.

- ① Intimidation through legal means is one of the forms of aggression and violence that political office holders and government employees may face. That calls for an integrated approach.
- ② This study was conducted at a time when the relationship between government and citizens was, and has been, strained for years. To understand how it got to the point where government employees feel intimidated by citizens (and vice versa) or why some think citizens are deliberately 'throwing sand in the machine', it is important to reflect on the relationship between citizens and government. Another factor is how the government interacts with citizens, which is taking on an increasingly legal angle, removing opportunities for conversation and prompting a legal response from citizens.
- ③ The phenomenon of intimidation through legal means can also be seen in the context of the political-administrative focus on undermining. However, based on this study, the proportion of people suspected of undermining or participating in a criminal organisation is small (1%).

## Suggestions based on the research findings

The study results in several suggestions. Given the above, we are thinking mainly of customisation within existing frameworks. A separate approach for this phenomenon does not seem desirable because of the connection with other factors and approaches.

- ① First and foremost: pay specific attention to intimidation through legal means within the usual approach against aggression and violence against administrators and government employees, based on the principle of being a good employer. In this framework, prevention, reporting and registrations, (peer) support and after-care, response towards the perpetrator, et cetera, can be further elaborated.
- ② Where necessary, provide legal assistance to local administrators and government employees who cannot provide this themselves. This could tie in with plans following from the inventory of support needs, on which the Program Council on Resilient Governance (in Dutch: Programma Weerbaar Bestuur) is currently working.

- ③ Decentralised authorities can focus more on a two-way dialogue with citizens, thus handling cases and discussing complaints that might otherwise escalate. The principles from mediation and restorative justice can be helpful here to prevent further juridification. It is useful to gain more insight into the needs and motives of litigants through research.
- ③ Intimidation through legal means by litigants suspected of being involved in organised crime or undermining, based on this research, seems the exception to the rule. However, in occurring cases, the consequences can be severe. To the extent that this occurs, this form of intimidation is best tackled as part of the larger problem, which may involve an integrated approach to organised crime or undermining<sup>2</sup> at the local level and supported by the local triangle. This in addition to the usual approach against aggression and violence against administrators and government employees. Especially in such often intense situations, the approach and support from within the organisation proves to be of great importance.
- ③ Finally, we recommend monitoring this phenomenon, for instance, by including questions about it in the already existing Integrity and Security Monitor and, in addition, conducting qualitative research aimed at how to further improve the approach to the problem. Gaining insight into the motives of litigants should be part of this.

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<sup>2</sup> In which a coherent combination of prevention, resilience, disruption and punishment can be used.

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DSP-groep is een onafhankelijk bureau voor onderzoek, advies en management, gevestigd aan de IJ-oeveren in Amsterdam. Sinds de oprichting van het bureau in 1984 werken wij veelvuldig in opdracht van de overheid (ministeries, provincies en gemeenten), maar ook voor maatschappelijke organisaties op landelijk, regionaal of lokaal niveau. Het bureau bestaat uit 40 medewerkers en een groot aantal freelancers.

#### **Dienstverlening**

Onze inzet is vooral gericht op het ondersteunen van opdrachtgevers bij het aanpakken van complexe beleidsvraagstukken binnen de samenleving. We richten ons daarbij met name op de sociale, ruimtelijke of bestuurlijke kanten van zo'n vraagstuk. In dit kader kunnen we bijvoorbeeld een onderzoek doen, een registratie- of monitorsysteem ontwikkelen, een advies uitbrengen, een beleidsvisie voorbereiden, een plan toetsen of (tijdelijk) het management van een project of organisatie voeren.

#### **Expertise**

Onze focus richt zich met name op de sociale, ruimtelijke of bestuurlijke kanten van een vraagstuk. Wij hebben o.a. expertise op het gebied van transitie in het sociaal domein, kwetsbare groepen in de samenleving, openbare orde & veiligheid, wonen, jeugd, sport & cultuur.

#### **Meer weten?**

Neem vrijblijvend contact met ons op voor meer informatie of om een afspraak te maken. Bezoek onze website [www.dsp-groep.nl](http://www.dsp-groep.nl) voor onze projecten, publicaties en opdrachtgevers.



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