

Assessment Report

T.M.C. Asser Instituut

Mid-term Review 2016 – 2019

February 2021

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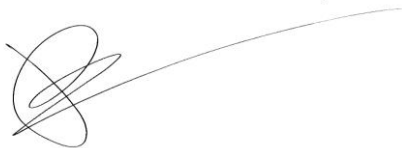
Preface

Just as the person of Tobias Asser stands for the development of international law, so does the T.M.C. Asser Instituut stand for the development of international and European law. With the appointment of a new Academic Director and new President in 2015, the Institute decided to embark on a strategic mission to put research at the heart of its activities.

In order to assess to what extent the mission was accomplished, the Board commissioned a peer review Committee to perform a mid-term review of the research period 2016 - 2019. The Committee consisted of Prof. dr. Larissa van den Herik, Prof. dr. Ben Smulders and the chair. As a basis for the review, the Board submitted a self-assessment report and a wide range of underlying documentation. Next to reading these documents the committee conducted an (online) site visit on the 10th of February 2021.

The Committee wishes to thank all involved at the Asser Institute for the comprehensiveness of the information that it received, as well as for the support throughout the process. It concludes that the Asser Institute has been more than successful at its ambitions in the combined fields of research and societal outreach, and is firmly positioned for a successful future. This is clearly the result of clear vision and a great deal of hard work of all involved. All recommendations presented in this report should be read as coming from critical friends, seeking to support the consolidation of the journey on which the Institute embarked over five years ago.

22 February 2021,

A handwritten signature in black ink, consisting of a stylized, cursive 'B' followed by a long, sweeping horizontal line that extends to the right.

Prof. Barbara Oomen
Chair

1. Introduction

1.1 The evaluation

All publicly funded university research in the Netherlands is evaluated at regular intervals in compliance with the national Standard Evaluation Protocol (SEP 2015-2021), as agreed by the Association of Universities in the Netherlands (VSNU), the Netherlands Organization for Scientific Research (NWO) and the Royal Netherlands Academy of Arts and Sciences (KNAW). The evaluation process, which is applied at the research unit or institute level, consists of a systematic external peer review conducted every six years. In between these evaluations, institutes may wish to carry out a mid-term review, the terms of reference of which they may fill in according to their needs, in agreement with their institutional board.

The evaluation system aims to achieve three generic objectives:

- *improvement* in the quality of research through an assessment carried out according to international standards of quality and relevance;
- *improvement* in research management and leadership; and
- *accountability* to the higher management levels of the research organizations and to the funding agencies, government and society at large.

This document contains the results of a mid-term review of the Asser Institute (AI) for the period 2016 - 2019. The aim of this midterm review was to assess whether, and to what extent, the objectives of the Strategic Plan 2016-2020 and the Asser Strategic Research Agenda 2016-2020, both aiming at strengthening the research profile of the institute, were realized.

This means that the Committee used a number of standards as a basis for its review. First of all, there is the Protocol for Research Assessments in the Netherlands (Standard Evaluation Protocol (SEP 2015 – 2021)). The format of the self-assessment conducted by the AI followed the format of the SEP-protocol. Next, there are the specific targets set by the AI itself in the field of research, societal outreach and viability.

These targets, as set out in the AI Strategic Plan and Research Agenda, are:

- 1) To critically contribute to the development of international and European law
 - To conduct more fundamental research;
 - To increase the number of high-quality academic publications;
 - To increase external funding for research;
 - To expand internationalization and networking.
- 2) To have a strong societal relevance by means of all research activities (knowledge cycles)
 - To achieve a strong link between research and knowledge dissemination activities (knowledge cycles).
 - To translate academic research into practical relevant outcomes.
- 3) To restructure the institute's organization for the transition towards an institute with a strong academic research profile.
 - To strike a balance between the Institute's interuniversity function and its role pursuant to the collaboration agreement with the University of Amsterdam.

Next to the criteria of the Standard Evaluation Protocol that is currently in force (SEP 2015 – 2021) the committee also took the additional criteria in the 2021 – 2027 SEP protocol into account: Open Science, PhD policy and training, Academic Culture and Human Resources policy.

All criteria applied are set out in the appendices to this report.

1.2 The assessment procedure

In order to conduct the review, the committee was provided with a self-assessment report over 2016-2019, and background information in a surfdrive folder. This included documentation on:

- Research and support staff
- Funding and expenditure
- Strategic Plan 2016 – 2020
- ASRA 2016 – 2020
- Output/activities/projects
- Knowledge dissemination
- Annual reports 2016 – 2019
- Organization charts
- Collaboration agreements with the UvA
- Asser – UvA Model for Academic Staff Performance Criteria

The committee read the documentation and liaised with the Board of the AI on the program. The program for the site visit on 10/2/2021 proposed by the Board was as follows:

09:30 – 10:15 (45 min)	Christophe Paulussen
10:15 – 10:30 (15 min)	Small break
10:30 – 11:30 (60 min)	Sofia Stolk & Rebecca Mignot-Mahdavi
11:30 – 11:45 (15 min)	Small break
11:45 – 12:45 (60 min)	Lisa Roodenburg & Taylor Woodcock
12:45 – 13:30 (45 min)	Lunch break
13:30 – 14:15 (45 min)	Maria Sperling
14:15 – 15:00 (45 min)	Break
15:00 – 16:30 (90 min)	Gert Grift & Janne Nijman

With as a rationale for the selection of people representing the AI that:

- *Christophe Paulussen* is a senior researcher and one of the coordinators of a research strand. He has worked at the Institute for nearly 10 years, and could therefore reflect on the transition, but also on the future. This because of his experience in combining fundamental research with societal outreach and other sources of funding.
- *Sofia Stolk and Rebecca Mignot-Mahdavi*, are both researchers in different strands. Sofia defended her PhD a few years ago, and Rebecca in December. They work in different research fields.

- *Lisa Roodenburg and Taylor Woodcock*, were suggested as PhD researchers to speak to. Lisa's PhD was approved in September 2020. She also worked on a project for the municipality of Amsterdam, and just started a new job for the Ministry of Justice & Safety. Taylor started her PhD research in September, working on the Military application of Artificial Intelligence.
- *Maria Sperling*, is a senior project officer and thus well acquainted with the institute as a whole, where she plays an important role in the acquisition of funding and project management.
- *Gert Grift and Janne Nijman* form the Executive Board of the Asser Institute, where Gert Grift is the Managing Director and Janne Nijman is the Chairperson and Academic Director.

In considering the suggested program, and mindful of the limits posed by a one-day review, the Committee decided that the interlocutors suggested were well suited to add personal insights to the information in the self-assessment report, and sufficiently representative of the staff. The Committee is well aware that speaking to more people would have led to an even more complete picture. This being said, the persons involved in the site visit were all well placed to help answer the key questions at hand in the review.

There is one point for consideration. During the visit, some interviewees observed that their views might not be fully representative for all or reflect the entirety of visions, feelings and understandings in the Institute. While this is undoubtedly always the case, one recommendation to the Board for future reviews is to consider involving more colleagues at the institute in the design of the program.

In terms of support of the Committee, Martine van Trigt was initially put forward as an independent secretary. She provided invaluable support in preparing the visit and the background documentation. The Committee did, however, decide to write the actual report itself and to not involve her, given her role in the preparation of the self-assessment report.

1.3 Results of the assessment

This report first sets out the structure, organization and mission of the Asser Institute. In the following chapters (3-5) the committee provides its review of the AI in the field of research, societal outreach and viability. Where it concerns research (3), the Committee feels that the transition to becoming a true research institute has been managed very successfully. In the period under assessment, for instance, the researchers of the Asser Institute have produced a significant number of excellent publications. They do so in the context of a dynamic research culture. Where it concerns PhDs, there is a support structure in place, but the Committee does point out the minimum threshold needed to sustain a true PhD community. In terms of societal outreach (4) the committee concludes that the AI meets its own targets in the field on policy outreach and assesses the societal relevance as very good. Nevertheless, the Committee does feel that there is room for more innovation. Where it concerns the viability of the Institute (5) the Committee concludes that the AI is well on track in ensuring its mid- and long-term viability and assesses the AI leadership as excellent. It does feel that the research vision and lines are too widely defined, and that making strategic choices and

strengthening middle management are a must here. In a final section (6) the Committee offers recommendations to strengthen research, outreach and viability.

1.4 Quality of the information

The Committee considers the information provided on paper and during the site visit as complete and adequate for an assessment of the questions at hand. The self-assessment report is extensive, open and reflective, and addresses all the criteria that form the basis for the evaluation. The narratives add extra insight. Whereas the publications, projects, activities cited in the report are often illustrations, the full overview was available in the yearly reports and appendices.

2 Structure, organization and mission

2.1 Introduction

The Asser Institute is a research center for international and European Law, established in 1965 as an interuniversity institute for international and European public law and international private law. The Institute is a foundation, affiliated with the University of Amsterdam (UvA). The Institute has been a facilitator for collaboration among Dutch law schools in research networks and/or knowledge dissemination activities. In addition, the Institute's aim is to collaborate closely with the UvA law school, in particular with the Amsterdam Center for International Law (ACIL).

2.2 Mission

The Asser Institute's mission is to contribute to the development of international and European Law by conducting independent fundamental, policy-oriented and applied legal research, as well as by initiating and facilitating academic and expert meetings, (professional) education, and public events with a view to disseminating knowledge of international and European law.

2.3 Management and organization

Management

In the period 2016-2019, the Institute was governed by a one-tier board, comprising three executive members (a part-time President, Ernst Hirsch Ballin; the Academic Director Janne Nijman; and the Managing Director Gert Grift) (together the Executive Board), and two non-executive members (the Dean of the UvA law school (André Nollkaemper) and the Dean of another law faculty representing the interests of the remaining Dutch law faculties (Suzan Stoter of the Erasmus School of Law) (all together the Governing Board). From 1 October 2020, pursuant to the new collaboration agreement with the UvA, there is a two-tier board, with an Executive Board consisting of the Academic Director (Chairperson) and Managing Director, and a Supervisory Board of five members.

Organisation

The Institute consists of a research department and four support units (Projects & Events, PR & Communication, Finance & Control, Operations & Special Projects), in addition to a secretariat of the board. It also has its own publishing house, T.M.C. Asser Press. In the period 2016-2019, the Institute had a staff representation comprising three members that was succeeded in the course of 2020 by a works council of five staff members.

The research department is organised around three research strands, led by three senior researchers (Antoine Duval, Geoff Gordon and Christophe Paulussen). At the *Coordination Team Meetings*, the three coordinators meet with the directors, senior communication officer and senior project officers. The research strands also convene during *Strand Meetings*. At department level, activities include research labs, reading groups, and research seminars. The support staff is organised around

four support units. The units of Projects & Events, PR & Communication and Finance & Control convene during *Commissioned Projects Team Meetings*.

Research

In the period 2016-2019, research was organised around the 'Asser Strategic Research Agenda (ASRA) (2016-2020)', entitled 'International and European Law as a source of trust in a hyper-connected world'.

2.4 Resources

The Asser Institute is partially funded by first flow of funds, allocated to the Institute through the UvA. The yearly amount of 2,2 million Euro covers approx. 40% of the total income.

In the period 2016-2019, the research department comprised 15,58 FTEs (2016), 16,50 FTEs (2017), 17,05 FTEs (2018), and 20,93 FTEs (2019).

Research FTEs were: 10,69 FTEs (2016), 11,09 FTEs (2017), 11,41 FTEs (2018), and 13,47 FTEs (2019). The division into first flow of funds and external funding was: 64%/36% (2016), 41%/59% (2017), 44%/56% (2018), and 43%/57% (2019).

After this factual overview of the structure, organization and the mission of the Institute, the following chapters address the Committee's assessment of the research, societal relevance and outreach conducted at the Asser Institute.

3 Assessment of the research quality

The period under assessment has been a period of transition. The central objective in this period was to become a true research institute. The Committee finds that this transition has been managed very successfully. The new and central focus on academic research has greatly complemented the existing characters of the Asser Institute as an institute with a function of “inter-university platform” and also as an institute being concerned with capacity-building projects and the organization of events. The Asser Institute is now an academic research institute on international and European law, that has the standing to compete with the best and largest departments on international and European law at law faculties in the Netherlands. In the period under review, the international reputation of the Asser Institute has also been enhanced through strategic international alliances (ASIL, Verfassungsblog) and certainly also through the output of high-level scholarship in the different projects and strands.

The main aims, as set out in the self-assessment report, were to critically contribute to the development of international and European law, and more specifically to conduct more fundamental research as well as to increase the number of high-quality academic publications. Intertwined with these aims were the objectives to increase external funding for research, and to enhance international exposure.

In the period under assessment, the aim to publish in leading and peer reviewed international and European law journals has been successful, combined with the production of several edited volumes with leading publishers, and also a significant number of book chapters. As indicated in the self-assessment, it is difficult to appraise research output in terms of quantity given the significant changes in the composition in the research department in the period under review. This being said, it is clear that there has been a steady increase in top-tier academic publications and the number of refereed journal articles was rising to 20 in 2019. In the period under assessment, the researchers of the Asser Institute have produced a significant number of excellent publications. Given the research energy present at the institute it seems likely that this will only continue and further increase in the years to come. The Committee observes that very few monographs were published in the period under review. This is understandable given the transition phase, but it is a point of attention for the upcoming period. Through monographs, researchers can present new research directions and claims or ideas with deeper and more elaborately structured reasoning. Monographs are thus an additional opportunity to contribute to the development of international and European law in a fundamental manner and also to project the Asser Institute as a leading research institute. Monographs are also important for the personal development and careers of individual researchers.

The research agenda of the Asser Institute is implemented through three strands, which are different in size and coherence. In addition, the concept of trust is presented as an overall research theme. The Committee noted however that the topic of trust does not seem to have a central place in the research output. The strands group together the variety of high-level and very visible projects of the

Asser Institute. The strands as such seem to function more as organizational units than as *guiding* conceptual frameworks. It is not always self-evident why certain projects feature in a given strand. This is not problematic per se and is comparable to the umbrella role that research programmes often perform at law faculties.

The period under assessment shows a greater emphasis on conceptual and critical thinking and output in addition to policy- and practice-oriented work. This fits within the research culture that has been created, and is indicative of the clear academic leadership and research vision that has guided the transition period. The overall substantive emphasis seems to lie slightly more with public international law than European law and/or private international law and in designing a new multi-annual research agenda for the period 2022-2026, it is advised that specific attention is paid to the question of what the ideal balance is between those different areas of law in the overall Asser research strategy.

In the period under assessment the Asser Institute has also been successful in obtaining funding for cutting-edge research projects. As a result of successful acquisition, there are a large amount of high-quality projects with great academic output as well as high societal relevance, which is immensely impressive for a medium-size research institute.

In the period under assessment, there has also been a clear, conscious and successful effort to attract promising new staff members from renowned universities and research institutes abroad. This is indicative of Asser's standing as research institute, also internationally. The participation of many Asser researchers in high-level research events abroad is also a sign of broad peer recognition. The great many memberships in editorial boards further underscore the standing of Asser researchers.

Together, the researchers have created a dynamic research culture with research labs and other types of research meetings, research lunches and book reading sessions, to jointly discuss scholarly literature and to give and receive feedback on ongoing research. Individual researchers are also coached by means of formal and informal conversations. Both on the basis of the self-assessment report and particularly also through the conversations during the site visit, the Committee formed an impression of a research culture that is both energetic and full of ambition. Individual researchers are given freedom to select their research topics and focus which they tremendously appreciate. Their individual research agendas are discussed in annual and ongoing conversations. Asser's research culture allows individual talent to blossom.

The commission's impression on the research culture, based on the self-assessment and the conversations during the site visit, was also that the Asser Institute overall provides an open, safe and inclusive environment. As also set out in the self-assessment, the institutional awareness on the importance of research integrity is present and supporting structures are in place also through reliance on the arrangements with UvA.

Reflections on the way forward and on diversity

In re-designing Asser's research agenda for a new period, the role and function of the strands should be revisited and clarified with specific attention for the question whether they are still meant to perform a substantive structuring function or whether they should rather mainly be understood as organizational units. As part of this revisiting, the composition, branding and particularly also the number of strands can be discussed. The Committee recommends looking into the option of expanding the number of strands with one or two so that the thematic connection between individual projects and strands can be reinforced. Different strands can also have a slightly different emphasis in terms of the type of research and research output they produce and how they contribute to the overarching goals and ambitions of the Asser Institute. This way, individual researchers can be part of strands where their specific talents come out best. Yet, the existing research culture and energy should be preserved, also with a view to maintaining synergies between different strands and researchers. For the next formal assessment, it might also be useful to articulate more precise output ambitions per strand and research project (which journals, edited volumes, which topics, what number of articles), focused on quality more than quantity, and recognizing the idea of diversity in research quality.

The Committee would like to emphasise its view that diversity is a notion that can also be used in the context of discussions on research quality. While the emphasis on peer-reviewed law journals and conceptual and critical thinking has been important for the transition period and obviously will remain important for Asser's aspiration to be a top research institute, it is important to recognize that research quality is not only determined by the publication platform. Different scholars produce different types of scholarship and make different contributions to scholarship / academia / society. Some scholars are more critical and conceptual, while others present new and important ideas through more doctrinal, descriptive, analytical work. The projects and / or strands can have different quality parameters, which recognize this diversity and do justice to the different type of researcher that a top research institute can and should be home to. Some strands may also have more societal relevance than others. This is not a problem, not every researcher and not every research project needs to tick all the boxes. The Asser Institute as an institute does, and within that overall structure different researchers can excel through their different talents.

PhD researchers

In line with the SEP protocol, individual attention is paid in this assessment exercise to PhD research. The Committee has observed that Asser PhD researchers are and feel part of the broader Asser research community. They are offered PhD education through PhD labs and masterclasses, for instance on methodology, and they are given the space to ensure that they can acquire the training they need also elsewhere. Asser is also a hub for inter-university PhD networks. For more

encompassing PhD support structures, the Asser Institute relies on the University of Amsterdam (UvA).

While support structures are thus well in place, there is no extensive PhD community present at the Asser Institute itself and UvA structures and communities may seem far away in practice. This is something to remain alert about, and also to make sure that there is easy access to a PhD Dean and confidential persons if need be.

However in addition to those formal structures, PhD researchers also need peers to discuss daily questions and to share the possible insecurities that are inherent in embarking on academic research for the first time. For this reason, the committee finds that there is a lower boundary to the notion of PhD community. If there are structurally less than 3-4 PhDs, questions pertaining to sustainability and the ability to offer a sound PhD environment become more acute.

4 Assessment of the relevance to society

The history, location and mission of the AI make that relevance to society of the research conducted is particularly important. This is expressed in the strategic vision of the Institute, which underlines the ambition to have a strong societal relevance by means of all research activities, to achieve a strong link between research and knowledge dissemination activities and to translate academic research into practical relevant outcomes.

In the self-assessment period, this ambition was clearly met. The researchers at the AI produced a wide range of publications directed at different societal target groups. At times, these were also written in collaboration with other institutes, such as the ICCT. The researchers also wrote 84 blogs. The 'events' clearly form the heart of the policy exchange within the AI, and the institute has managed to invite well-known speakers and choose cutting edge themes for events such as the annual lecture. One particular form of outreach are the trainings for legal professionals and policy makers. In addition to this, contract research also serves to enhance the societal relevance of the work at the AI. The annual reports map the wide networks of the AI members, who are invited to speak for a wide range of international and national audiences.

Against this background, the Committee considers the AI's role within the institutional landscape as one that is unique. The focus on rigorous research, and the connection with the UvA, set it apart from other think tanks and make for a unique selling point. It is clear that in many of the projects there is a true knowledge cycle, in the sense that more fundamental and more policy oriented research go hand in hand. In other instances, the rift seems larger, with fundamental research on the one hand, and project work on the other.

The specific interuniversity role that the AI has also strengthens its potential in connecting research to society. Because of its location in the Hague and central function in various (PhD) networks it can serve as a bridge between Dutch and international policy makers and Dutch academia at large.

Whilst the AI thus meets its own targets in the field on policy outreach and its societal relevance is generally assessed as very good, the Committee does feel that there is room for more innovation. This in terms of stakeholder involvement in agenda-setting, the types of stakeholders involved and the modes of engagement with these stakeholders. On the first issue, stakeholder involvement in agenda-setting, the AI could be more active in identifying key research topics together with societal stakeholders, and in conducting research as co-production. The process surrounding the Nationale Wetenschapsagenda (the National Science Agenda) shows how these processes of co-production of research agenda's fit within current times.

Where it concerns the type of stakeholders, it is clear that the AI engages mostly in classical legal and policy outreach, to mostly Dutch, European and Western partners. Here, there is much to be gained (in terms of insight and in terms of societal embedding) in reaching out to less logical actors (business, youth) in a wider variety of settings.

Thirdly, whereas blogs and professional publications are of importance, other modes of societal outreach deserve more attention. The structural cooperation with

Movies that Matter is an inspiring instance of such a novel form of outreach, but there is much to be gained in sharing insights via visuals and podcasts.

Open Science

There is a clear relationship between societal outreach and open access, which is swiftly becoming the norm. The AI follows the UvA here, and has a SSRN series, but it would be better to explicitly have this on the agenda. The T.M.C Asser Press book series, for instance, is very expensive and thus difficult to access for a wide range of stakeholders. Against this background, the Committee recommends considering means of publishing insights that are accessible to all.

In all, the AI clearly fulfils its ambition to be a policy-relevant actor, and to make the most out of its position in the Dutch legal academic landscape in combination with its location in the Hague. This being said, societal outreach is a domain where there is a great deal of room for innovation. Given the AI history, and the principle of 'noblesse oblige', this should shape the AI's strategic agenda for the years to come.

5 Assessment of the viability

For the AI as a whole, the following objectives were formulated in 2016:

- to restructure its organization for the transition towards an institute with a strong academic research profile;
- to strike a balance between its interuniversity function and its role pursuant to the collaboration agreement with the University of Amsterdam.

In the Committee's view, the Strategic Plan 2016-2020 and the ASRA reflect strategic choices that lay solid foundations for the fulfilment of these objectives. The AI's board deserves also praise for the way it has implemented this strategy over the last five years, leading to high-quality independent fundamental, policy-oriented and applied legal research becoming the basis for all the AI's activities, with a strong societal relevance. Taken together, these actions contribute considerably to ensuring the AI and its research department's viability.

As regards future action, the Committee agrees with the AI's self-assessment report, where it considers capitalising on the full potential of the recently concluded collaboration agreement with the University of Amsterdam as well as of the AI's new management structure, characterised by a two-tier board, as being key for the successful completion of this transition process and in order to ensure the mid- and long-term sustainability of the pursued reform. In particular, it seems that the newly created Supervisory Board, the members of which are not only representing the University of Amsterdam, could play a useful role in ensuring the required balance between the implementation of the AI's cooperation agreement with the University of Amsterdam and the fulfilment of the AI's inter-university function.

The current medium-size of the AI and its research department are regarded in the self-assessment report as being both a strength and a weakness. In the same context, the report signals the fact that its size requires a rare combination of academic (research), managerial and operational skills and that the AI encounters difficulty in finding researchers that match the AI's new features and profile. Moreover, the report notes the AI's high dependence on direct and indirect external funding. The Committee submits that the combination of these factors and given the huge strain (e.g. in terms of coaching of researchers) these factors put currently on a very limited number of key persons at the top of the AI's organisation in order to uphold the quality and quantity of the AI's research output, of its societal outreach and the financial sustainability thereof, a carefully managed upscaling of the AI and its research department could offer more guarantees to ensure its mid- and long-term viability, especially if, as explained in somewhat more detail below, this were to lead to the creation of a genuine middle management structure composed of a higher number of research (strand) coordinators, alleviating the burden on the AI's top management.

Assessment of some specific elements relevant to the viability of the AI and its research department

– During the reference period, the *AI's leadership* has proven to be excellent. Indeed, it developed and consistently put in practice a thoroughly thought through vision on the strategy which the AI had to follow, adopting thereby a pragmatic

hands on approach whilst displaying a strong commitment to achieving ambitious objectives set by this this new strategy. In doing so, incessantly it strived for excellence by guiding with wisdom and enthusiasm all the members of the AI community in their individual efforts to contribute to these objectives. Over time, the Committee feels that it would seem nevertheless that the effectiveness of the leadership could increase up to a more sustainable level if the AI's research (strand) coordinators were able to take over some of the leadership's current managerial tasks. Such a development would have the additional advantage of making their role more attractive in terms of career perspective, thus increasing their motivation, since the fulfilment of increased managerial tasks would require more and diverse skills than their current ones.

– In the same period and in line with the new strategy, the *AI's (scientific) visibility and recognition* steadily increased but reached by now such a level, that one may legitimately wonder, especially considering the limited scale of AI and its research department, whether it can be maintained, let alone whether there is scope for further increase, even if focussing the research on a more limited number of objects may create some economies of scale beneficial to a greater visibility and recognition. Such a reduction entails the risk of demotivating the current generation of researchers and thus losing the benefit of their talents. Hence, in order to maintain (and perhaps even increase) over time the high quality standards of the research and of the societal outreach thereof and thus its ensuing visibility and recognition, if not alternatively than at least cumulatively, one could envisage (i) to increase the number of research strands, whilst seeing to it that each strand is of a comparable size in terms of researcher numbers, engages in more focussed research and synergy is created among the strands; (ii) to ensure that within each strand, research activities remain more within the frame set by each of the strand's research objects. Even if this would probably require increasing the number of researchers and coordinators, such an upscaling would have the advantage of creating more manageable opportunities for research in a wider number of objects, with the help of more resources, that jointly can not only better ensure maintaining the current quality and quantity of the overall research output but also better contribute to promoting the visibility and recognition of that output.

– As explained above, the Committee takes the view that the *AI's current research vision and research lines (strands)* are too widely defined but that the actual research projects are very innovative, helping to distinguish its input from that of any other research institute active in the same fields. The Committee is aware that, when translating in the future, for reasons of viability, a more refined research vision into concrete research objects whilst at the same time defining adequate ways for the societal outreach and the necessary external funding therefore, the challenge to strike the right balance between academic freedom and the need for financial viability will only become bigger.

– The current *composition of the AI's group* in terms of expertise and people appears also to be very good but given the variety of skills that will be required from researchers and coordinators overall in order to contribute to the AI's mid- and long-term viability, the Committee suggests, in terms of skills other than purely research related, to allow a certain degree of specialisation among researchers to be developed and to combine this with the future recruitment of a mix of less as well as more experienced researchers, considering, on the one hand, that researchers, in addition to their research activities, are expected to devote 40% of their time to making billable hours and 20% to administration and acquisition and, on the other hand, that coordinators could play a useful role in ensuring the AI's viability by taking on them more managerial tasks (see above

what was noted on the AI's leadership). An additional advantage of such changes is that the career perspectives of researchers would be broadened in that they could easier move to the mid management level of coordinators, whose careers in turn, because of its increased diversity, would also become more attractive, whilst the most successful of them may even aspire to become, in due course, eligible for the AI's board. Moreover, an increase of researchers and coordinators may well facilitate the increase overall of the AI's staff diversity.

– Finally, with respect to the *AI's acquisition capacity*, the Committee welcomes that fully in line with the new strategy and the underlying business model implying a high dependence on direct and indirect external funding, much has been invested in professionalising that capacity. The same considerations suggest that the return in that investment could be increased by allowing the current support unit regarding acquisition to play a role not only in relation to developing researchers' skills in terms of acquisition, but also in relation to their recruitment, the selection of their research objects as well as the appointment of coordinators, so as to strengthen upstream the link between research and funding. Again, the Committee is much aware that such an involvement needs to be designed in a very careful way so as the strike the proper balance between academic freedom and the need for adequate funding.

Concluding section

Considering the above, the Committee concludes that the AI is well on track in ensuring its mid- and long-term viability. To fully achieve that objective, it recommends a sustained effort to exploit to the fullest the benefits which represent the new cooperation agreement with the University of Amsterdam and the AI's new organisation structure, that could be further refined by creating a middle management composed of research coordinators, alleviating the currently heavy burden on the board, as well as by restructuring the research strands in terms of size, focus and researchers' profile in so far as they create the above identified economies of scale and synergy conducive to increasing the AI's viability in the middle and long term.

It is to be noted that the Committee did not engage in an assessment of the AI's mid or longer term financial viability, which would have required considerable more time and data.

6 Recommendations

The review conducted is truly mid-term. The Asser Institute chose a clear path to take in 2015, and the Committee assesses the achievements halfway this path. Here, the impression is generally very favourable, it is clear that the Institute more than meets its own ambitions. To consolidate the successes and to ensure that they last, the Committee presents the following recommendations.

With a view to consolidating and furthering the position of Asser as a top research institute, the Committee recommends to:

- Continue and increase the number of excellent publications.
- Strive towards the inclusion of some top level monographs as part of the overall research output for the upcoming period.
- Revisit the strands and articulate more clearly whether these are primarily organizational units or whether their main function concerns substantive structuring and ensuring coherence.
- Consider adding one or two strands for thematic as well as organizational reasons (see also below under viability).
- Be more explicit about the role and position of public international law, private international law and European law, and their interrelationship as well as ideal balance law between those areas of law in the overall Asser research strategy and as regards the positioning and identity of the Asser Institute.
- Embrace the notion of diversity and its relevance also in the context of discussions on research quality, including the idea of different types of top scholars.
- Continue and cherish the existing research culture. This is a responsibility, like many others, that falls on all researchers. Individual academic freedom only thrives in a team-spirit environment.
- Research integrity is and should remain a central point of attention.
- Articulate a minimum number of PhD researchers that should structurally be present within the Asser Institute's research community, and make arrangements to ensure this number is met.

In order to achieve a strong link between research and knowledge dissemination activities and to translate academic research into practical relevant outcomes, the Committee recommends to:

- Consider involving societal stakeholders in research design and in the full cycle of the research, thus working on the co-production of a research agenda.
- To widen the range of societal stakeholders and their geographical location and to reach out to less logical actors (business, youth) in a wider variety of settings.
- To invest more in novel forms of communicating insights such as sharing insights via visuals and podcasts.
- To consolidate the experience gained with online seminars and activities during Covid, and make these a standard part of the outreach repertoire.
- To make a clear choice for Open Science and to invest in it.

In order to enhance the AI's mid- and long-term viability, the Committee recommends to:

- Exploit the full potential of the cooperation agreement with the University of Amsterdam as well as of the newly created Supervisory Board, which, given its composition, could play a useful role in preserving the AI's interuniversity character.
- Upscale of the AI's size through an increased number of researchers, coordinators and research strands.
- Ensure that strands are of a comparable size, engaged in more focused research whilst synergies are fostered and sustained among them.
- Create a middle management composed of strand coordinators mastering a variety of skills going beyond mere research.
- Allow, in terms of skills other than purely research related, for some degree of specialization among researchers and for future recruitment of a mix of less as well as more experienced researchers.
- Involve the support unit regarding acquisition in the recruitment of researchers, the selection of their research objects and the appointment of coordinators.

Annex 1 Criteria and scores of SEP 2015-2021

Criterion 1: Research quality

The committee assesses the quality of the institute's research and the contribution that research makes to the body of scientific knowledge. The committee also assesses the scale of the institute's research results (scientific publications, instruments and infrastructure developed by the group, and other contributions to science).

The following elements are to be considered in assessing this criterion:

- scientific quality
- productivity to the scientific community (in relation to the volume of the tenured scientific staff)
- the academic reputation of the group
- the strategy to provide the output at the highest relevant level possible

Criterion 2: Relevance to society

The committee assesses the quality, scale and relevance of contributions targeting specific economic, social, or cultural target groups, of advisory reports for policy, of contributions to public debates, and so on. The point is to assess contributions in areas that the institute has itself designated as target areas.

The following elements—if applicable—are to be considered in assessing this criterion:

- a narrative in which the group demonstrates its relevance for society
- research products for societal target groups such as: professional publications and outreach to the general public, other research output to society
- use of research products by societal groups such as patents, licenses, training courses
- projects in cooperation with societal partners (European Union, international funds, charities)
- contract research (including consultancies), also co-publications and use of facilities
- present jobs of alumni
- demonstrable marks of recognition by societal groups such as demonstrated by advisory reports for the government
- media exposure as presentations on radio / TV, invited opinion articles etc.
- membership societal advisory boards

Criterion 3: Viability

The committee assesses the strategy that the institute intends to pursue in the years ahead and the extent to which it is capable of meeting its targets in research and society during this period. It also considers the governance and leadership skills of the institute's management.

The following elements are to be considered in assessing this criterion:

- leadership
- (scientific) visibility and recognition
- research vision and strength of the research lines

- innovative strength
- strategic choices and decisions
- composition of the group (expertise, people)
- acquisition capacity

Additional aspects

(1) PhD programs

The assessment committee considers the supervision and instruction of PhD candidates. The relevant subjects include the institutional context of the PhD programmes, the selection and admission procedures, the programme content and structure, supervision and the effectiveness of the programme plans and supervision plans, quality assurance, guidance of PhD candidates to the job market, duration, success rate, exit numbers, and career prospects.

At the universities, it is the graduate schools that provide PhD supervision and instruction. If the PhD programmes are also run in a nationally accredited research school and the research unit's PhD candidates participate in those schools, then the assessment also covers the quality of the national research school. The national research school is assessed within the context of the research units' SEP assessments. As a rule, this is the research unit that acts as the lead unit for the research school. A similar arrangement is made when the PhD candidates of multiple research units are enrolled in a single graduate school.

The research unit undergoing assessment responds to a number of questions in the self-assessment, described in the format provided in Appendix D. The unit should use these questions to reflect on its own PhD programmes and on how it supervises PhD candidates within its research unit. The assessment committee discusses this during the site visit, comments on this in its report, and makes recommendations for improvement. Where research units cooperate within the context of a graduate school or accredited research school, they will preferably present their PhD programmes collectively and in the same way. Where necessary, a separate external committee can be called in to assess a national/inter-university research school.

A general reflection covering the following aspects:

- a. context, supervision and quality assurance of PhD programmes and PhD research in the unit;
- b. participation in a graduate school or schools and/or a research school or schools; where relevant, include an appendix providing the results of an assessment of national/interuniversity/interdisciplinary research school/ schools;
- c. the selection and admission procedures (where applicable);
- d. supervision of PhD candidates internally and guidance of PhDs to labour market;
- e. exit numbers in the following sectors: research, industry, government and nonprofit (where possible). Information on the duration and the success rate of the PhD programmes should be given in Table D3d.

(2) Integrity

The assessment committee considers the research unit's policy on research integrity and the way in which violations of such integrity are prevented. It is interested in how the unit deals with research data, data management and integrity, and in the extent to which an independent and critical pursuit of science is made possible within the unit. The assessment committee bases its assessment on how the research unit itself describes its internal research culture. The research unit undergoing assessment responds to a number of questions in the self-assessment, described in the format provided in Appendix D. The unit should use these questions to reflect on its own data management practices, the level of internal research integrity, and the transparency of its research culture. The assessment committee discusses these points during the site visit, comments on this in its report, and makes recommendations for improvement.

A general reflection covering the following aspects:

- a. the degree of attention given to integrity, ethics, and self-reflection on actions (including in the supervision of PhD candidates);
- b. the prevailing research culture and manner of interaction;
- c. how the unit deals with and stores raw and processed data;
- d. the unit's policy on research results that deviate flagrantly from the prevailing scientific context;
- e. any dilemmas (for example of an ethical nature) that have arisen and how the unit has dealt with them.

(3) Diversity

The assessment committee considers the diversity of the research unit. It is precisely the presence of mutual differences that can act as a powerful incentive for creativity and talent development in a diverse research unit. Diversity is not an end in itself in that regard, but a tool for bringing together different perspectives and opinions. The assessment committee bases its assessment on how the research unit itself describes its internal diversity. This refers to such topics as gender, age, and ethnic background. The research unit undergoing assessment responds to a number of questions in the self-assessment, described in the format provided in Appendix D. The intention is for the research unit to use the answers to reflect on its own diversity. The assessment committee discusses these points during the site visit, comments on this in its report and, where appropriate, makes recommendations for improvement.

A general reflection covering the following aspects:

- a. the extent to which diversity is a concern (including gender, age and ethnic background) and reflection on the unit's own actions in this regard;
- b. a brief description of where the research unit stands at present with respect to its own diversity and the diversity of the organisational culture (promoting an inclusive research environment (in which researchers feel at home, regardless of their gender, age or ethnic background));
- c. the research unit's diversity targets;
- d. how the research unit intends to achieve these targets;
- e. how the research unit guarantees diversity in its selection and appraisal committees.

Annex 2 Criteria and scores of SEP 2021-2027

Criterion 1: Research quality

The quality of the unit's research over the past six-year period is assessed in its international, national or – where appropriate – regional context. The assessment committee does so by assessing a research unit in light of its own aims and strategy. Central in this assessment are the contributions to the body of scientific knowledge. The assessment committee reflects on the quality and scientific relevance of the research. Moreover, the academic reputation and leadership within the field is assessed. The committee's assessment is grounded in a narrative argument and supported by evidence of the scientific achievements of the unit in the context of the national or international research field, as appropriate to the specific claims made in the narrative. The protocol explicitly follows the guidelines of the San Francisco Declaration on Research Assessment (DORA)² adopted by KNAW, VSNU and NWO.

Criterion 2: Societal relevance

The societal relevance of the unit's research in terms of impact, public engagement and uptake of the unit's research is assessed in economic, social, cultural, educational or any other terms that may be relevant. Societal impact may often take longer to become apparent. Societal impact that became evident in the past six years may therefore well be due to research done by the unit long before. The assessment committee reflects on societal relevance by assessing a research unit's accomplishments in light of its own aims and strategy. The assessment committee also reflects, where applicable, on the teaching-research nexus. The assessment is grounded in a narrative argument that describes the key research findings and their implications, while it also includes evidence for the societal relevance in terms of impact and engagement of the research unit.

Criterion 3: Viability

The extent to which the research unit's goals for the coming six-year period remain scientifically and societally relevant is assessed. It is also assessed whether its aims and strategy as well as the foresight of its leadership and its overall management are optimal to attain these goals. Finally, it is assessed whether the plans and resources are adequate to implement this strategy. The assessment committee also reflects on the viability of the research unit in relation to the expected developments in the field and societal developments as well as on the wider institutional context of the research unit.

Additional aspects

(1) Open Science

The assessment committee considers the extent to which the research unit involves stakeholders, if possible and relevant, in the preparation and execution of the aims and strategy. It also considers to which extent the research unit opens up its work to other researchers and societal stakeholders in the context of its strategy and policy. Furthermore, the committee considers whether the research unit reuses data where possible; how it stores the research data according to the FAIR4 principles; how it makes its research data, methods and materials available; and when publications are available through open access. Even if Open Science was not yet considered by the research unit for the past period, the assessment committee evaluates the unit's considerations and plans for the future with regard to Open Science.

In the self-evaluation, the research unit reflects on how it involves stakeholders, to which extent the research unit opens up its work to other researchers and societal stakeholders, how it pays attention to other aspects of open science and what its future plans are in this respect.

(2) PhD Policy and Training

The assessment committee considers the supervision and instruction of PhD candidates, including PhD education at relevant institutional graduate school(s) and (national) research school(s)⁵, in light of their aims, strategy and policy. Furthermore, the committee considers whether the quality assurance system is functioning properly. Here, too, the goals that the research unit has set for itself are important. PhD training, mentoring and coaching deserves attention given the special position of the large numbers of PhD candidates in the different research institutions.

In the self-evaluation, the research unit reflects on the institutional context of the PhD programmes, the PhD programme content and structure, quality assurance, the selection and admission procedures for PhD candidates, as well as the position of PhD candidates and PhD training in the unit's research. Furthermore, the research unit reflects on the supervision of PhD candidates, the effectiveness of the Training and Supervision Plans, the guidance of PhD candidates towards the job market, duration, success rate, exit numbers and career prospects for PhD candidates.

(3) Academic Culture

Openness, (social) safety and inclusivity:

The assessment committee considers the openness, (social) safety and inclusivity of the research environment. In the self-evaluation, the research unit reflects on its culture in terms of appreciating the multiplicity of perspectives and identities in the workplace; on which measures are taken to ensure openness, safety and inclusivity; and on how responsibility is taken by leaders of and within the research unit in order to contribute to such an academic culture.

Research integrity:

The assessment committee considers the research unit's policy on research integrity as well as the way that the unit facilitates the relevant actions and requirements formulated in the Netherlands Code of Conduct for Research Integrity. In the self-evaluation, the research unit reflects on data integrity as well as the extent to which an independent and critical pursuit of science is made possible within the unit. Furthermore, the research unit reflects on the degree of attention given to integrity and ethics, on the prevailing research culture and mode of interaction, as well as on relevant dilemmas (for example, of an ethical nature) that have arisen and on how the research unit has dealt with them. These dilemmas could include issues related to authorship, ethical considerations regarding privacy or collaborations with stakeholders.

(4) Human Resources Policy

Diversity:

The assessment committee considers to which extent diversity (including gender, age, ethnic and cultural background and disciplines) is a concern, while it also evaluates the actions and plans for the future of the research unit. In the self-evaluation, the research unit reflects on where the research unit stands at present with respect to diversity in relation to its aims, strategy and policy. Furthermore, the research unit reflects on how it guarantees diversity-promoting HR practices such as inclusive selection and appraisal procedures.

Talent Management:

The assessment committee considers the research unit's policies on talent selection and development in relation to its aims and strategy. More specifically, it evaluates the unit's recruitment policies, opportunities for training and development, coaching and mentoring, as well as career perspectives for researchers and research support staff in different phases of their career. In the self-evaluation, the research unit reflects on its selection, training, promotion and retention policy, as well as on the way that it offers opportunities for diverse career paths. This reflection includes a consideration of how the research unit ensures that researchers are properly evaluated, rewarded and incentivised.

Annex 3 Terms of Reference

The board of the T.M.C. Asser Institute for international and European Law hereby issues the following Terms of Reference to the midterm assessment committee of the institute.

The assessment committee consists of Prof. dr. Barbara Oomen (chairperson), Prof. dr. Larissa van den Herik and Prof. dr. Ben Smulders. Martine van Trigt (Senior Project Officer at the Asser Institute) will act as impartial secretary to the committee.

Midterm assessment

The T.M.C. Asser Institute organizes a midterm assessment of its research for the period 2016-2019. The basis of the assessment is the Protocol for Research Assessments in the Netherlands (Standard Evaluation Protocol (SEP 2015 – 2021)). The institute has conducted a self-assessment, following the format of the SEP-protocol.

The aim of the midterm assessment is to assess whether, and to what extent, the objectives of the Strategic Plan 2016-2020 and the Asser Strategic Research Agenda 2016-2020, both aiming at strengthening the research profile of the institute, have been realised. For the purpose of this assessment specific targets have been defined to meet its strategic objectives during the self-assessment period (based on the criteria as set out in the Strategic Plan). The institute would like to assess in particular how it is on track in implementing these targets, which are the following:

Research:

In general: to critically contribute to the development of international and European law

- To conduct more fundamental research;
- To increase the number of high-quality academic publications;
- To increase external funding for research;
- To expand internationalization and networking.

Societal relevance:

In general: to have a strong societal relevance by means of all research activities (knowledge cycles)

- To achieve a strong link between research and knowledge dissemination activities (knowledge cycles).
- To translate academic research into practical relevant outcomes.

For the institute as a whole, the following objectives can be formulated:

- To restructure the institute's organization for the transition towards an institute with a strong academic research profile.
- To strike a balance between the Institute's interuniversity function and its role pursuant to the collaboration agreement with the University of Amsterdam.

The committee is asked to provide a written qualitative assessment, including recommendations for improvement, based on the three SEP criteria (research quality, societal relevance, viability).

Documentation

The necessary documentation will be made available through SURF-drive and if requested hardcopies will be provided.

The documents will include:

- Self-assessment T.M.C. Asser Institute 2016-2019;
- Strategic Plan 2016-2020;
- Asser Strategic Research Agenda 2016-2020;
- Cooperation agreement and covenants with the University of Amsterdam;
- Annual reports 2016-2019;
- The framework for individual performance criteria;
- Current and former organizational charts.

Plan Site visit

The site visit at the T.M.C. Asser Institute will take place on 2020.

Statement of impartiality

Before embarking on its assessment work, the committee will be asked to sign a statement of impartiality. In this statement, the committee members declare that they have no direct relationship or connection with the T.M.C. Asser Institute.

Assessment report

The committee is asked to send the draft report to the T.M.C. Asser Institute before 29 January 2021. The institute will check the report for factual inaccuracies. If such inaccuracies are detected, the committee will be requested to correct the report accordingly.

Annex 4 Programme site visit

Wednesday 10 February 2021 (online)

09:30 – 10:15 (45 min)	Christophe Paulussen (senior researcher)
10:15 – 10:30 (15 min)	kleine pauze
10:30 – 11:30 (60 min)	Sofia Stolk & Rebecca Mignot-Mahdavi (researchers)
11:30 – 11:45 (15 min)	kleine pauze
11:45 – 12:45 (60 min)	Lisa Roodenburg & Taylor Woodcock (PhD researchers)
12:45 – 13:30 (45 min)	Lunchpauze
13:30 – 14:15 (45 min)	Maria Sperling (senior project officer)
14:15 – 15:00 (45 min)	grote pauze
15:00 – 16:30 (90 min)	Gert Grift & Janne Nijman (management)

Annex 5 Curricula vitae of the committee members

Barbara Oomen holds a chair in the Sociology of Human Rights at Utrecht University, and leads the 'Cities of Refuge' research project. She was the Dean of University College Roosevelt (UU's honours college in Middelburg) from 2012 – 2016, and a Fernand Braudel fellow at the European University Institute in Florence from 2016-2017. She has worked and taught on themes of law and cultural diversity at Leiden University, the University of Amsterdam, the University of Cape Town and Columbia University. Next to her work in research and teaching, prof. Oomen has held a wide variety of administrative and advisory positions, such as the chair of the Netherlands Platform on Human Rights Education, member of the Constitutional Review Committee and of the Advisory Board of the Netherlands Institute for Human Rights. She has also been actively involved in shaping the Dutch agenda for Higher Education, as a member of Science in Transition, of the Advisory Board of the Strategic Agenda for Higher Education and of numerous review boards in the Netherlands and in Europe.

Larissa van den Herik is Professor of Public International Law at the Grotius Centre for International Legal Studies at Leiden University. She was Vice-Dean of Leiden Law School from 2014 to 2020, holding the research portfolio. Her own research areas are within the areas of international criminal law and international peace and security law, with a current research project on diasporas and international law. She is General Editor of the Cambridge Studies in International and Comparative Law. She also serves as general editor of the Leiden Journal of International Law (former Editor-in-Chief 2005-2013). Professor Van den Herik is chair of the Advisory Committee on Public International Law Issues to the Netherlands Government and has advised the government in that capacity, inter alia, on drones, cyber warfare, humanitarian assistance, and autonomous weapons systems, as well as the work of the ILC (e.g. on crimes against humanity.) Professor Van den Herik was also member of the independent commission that evaluated the Law on Intelligence and Security Agencies (WIV 2017).

Ben Smulders is a Director in the European Committee Legal Service, heading its Trade Policy & WTO team. Prior to this, he worked in the Legal Service as a Director, heading the Institutions & EMU team and served before as member of its Internal market, State aid control & Anti-dumping- and Competition teams. He served from 2014 until 2019 as Head of Cabinet to the European Committee First Vice President Frans Timmermans. From 2004-2008, he was Head of Cabinet of the Competition Commissioner Neelie Kroes. Prior to being employed by the European Commission, Ben Smulders was a member of the Amsterdam bar and practised law in the Amsterdam and Brussels offices of the law firm Nauta Dutilh, of which he was elected partner in 1990. Since 2013, Ben Smulders has been a Guest Professor of International and European Competition Law at the Free University of Brussels. He is also a Visiting Professor of Law at the College of Europe in Bruges, a Visiting Professor at the Collegio Europeo affiliated to the Università degli Studi di Parma, a member of the Scientific Board of its Centro di Studi in Affari Europei e Internazionali and teaches yearly a Master's course on the rule of law at the Université Paris 2 Panthéon-Assas. Moreover, he chairs the Supervisory Board of the Leiden University's Europa Instituut and is a substitute judge in the Court of Appeal of The Hague. Ben

Smulders co-edits the Common Market Law Review and authored numerous publications on a great variety of EU law related subjects.