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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on the Kingdom of the Netherlands**

<i>Concluding observations (126th session):</i>	CCPR/C/NLD/CO/5 , 18 July 2019
<i>Follow-up paragraphs:</i>	16, 19 and 35
<i>Information received from State party:</i>	CCPR/C/NLD/FCO/5 , 22 July 2021, and CCPR/C/NLD/FCO/5/Add.1 , 8 July 2022
<i>Information received from stakeholders:</i>	Groninger Bodem Beweging with the support of Stand Up For Your Rights and Just Law , 6 February 2023
<i>Committee's evaluation:</i>	16 [B][C], 19 [A][B] and 35 [A][B][C]

Paragraph 16: Racial discrimination, hate speech and hate crimes¹

Summary of the information received from the State party

(a) The Public Prosecution Service consults with interest groups and media experts on how best to tackle discrimination through criminal law. The Government does not intend to draw up codes of conduct for the political discourse of members of the Government. Responsibility for the political discourse of elected representatives lies with the individuals themselves and with the body to which they were elected.

(b) During its presidency of the Council of the European Union in 2016, the State party supported the development and implementation by tech companies of the European Union code of conduct on countering illegal hate speech online. It also supported the development and implementation of measures to address hate speech during football matches through a plan entitled “Football is for everyone. Together we’re tackling racism and discrimination”, presented in 2020, which includes digital tools to report incidents of racism.

* Adopted by the Committee at its 137th session (27 February–24 March 2023).

** The term “the Kingdom of the Netherlands” is used in the present report to refer to the four parts that constitute the Kingdom of the Netherlands: the Netherlands, Aruba, Curaçao and Sint Maarten. The term “the Netherlands” is used in the present report to refer to one of the four parts that constitute the Kingdom of the Netherlands.

¹ The paragraphs containing the Committee’s recommendations are not reproduced in the present document owing to the word limit specified in General Assembly resolution [68/268](#), para. 15.



(c) When a criminal complaint is lodged, the police conduct an individual victim assessment to identify any discriminatory elements. The Public Prosecution Service has issued instructions on discrimination, which set out the policy on prosecution in cases involving discrimination. The Ministry of Justice and Security has consulted the police, Victim Support Netherlands and the anti-discrimination services to discuss the procedure the police follow when referring persons who report or file criminal complaints of hate crimes in order to identify problems and implement any necessary improvements. In Curaçao, everyone has unobstructed access to the court of first instance and the Ombudsman ensures redress, if needed. During the reporting period, no cases of racial discrimination were investigated or prosecuted in Curaçao. In Sint Maarten, the local registration system does not have a separate category for hate crimes and there is no evidence of any need for one. The police list hate crimes as “high impact crimes”, while crimes such as threats, slander and defamation are registered by the Public Prosecutor.

(d) Training on ethnic and religious diversity and discrimination is provided to judges, prosecutors and police officers. The training programme for judges and prosecutors has been redesigned to include a course entitled “Judgments without Prejudice”, which specifically addresses institutional racism and discrimination. In Aruba, diversity training is provided at the Police Academy and the police maintain a diversity skills network to support, inform and advise police officers on discrimination and related approaches. In Sint Maarten, all law enforcement agents receive training on cultural, ethnic and racial sensitivities.

(e) At the end of 2020, under the 2018–2021 Labour Market Discrimination Action Plan, a bill to oversee equal opportunities in recruitment and selection was presented to the House of Representatives, but was then put on hold due to the fall of the Government. The bill would empower the Social Affairs and Employment Inspectorate to supervise the recruitment and selection procedures of employers and intermediaries in the labour market, which would include safeguards to prevent discrimination. A labour market discrimination checklist has been developed by the Netherlands Organisation for Applied Scientific Research on behalf of the Inspectorate. A range of other measures have been planned or are already being implemented.

(f) The debate on the Sinterklaas celebration and the Pete character remains an issue for society that cannot be regulated by the Government. The Government’s role is to facilitate respectful dialogue and depolarization. In Aruba, the Pete character has evolved and in future years will no longer be portrayed with a black face. The new image will be presented in schools and during the annual arrival of Sinterklaas by boat.

(g) A table containing data on hate crimes recorded by the police between 2014 and 2019 is provided, including data on prosecutions and convictions.

Committee’s evaluation

[B]: (a), (b), (c), (d), (e) and (g)

While the Committee welcomes the steps taken to prevent hate speech, it regrets the lack of information provided on awareness-raising activities. It reiterates its recommendation in this regard.

The Committee welcomes the measures taken to address racial discrimination and hate speech in the context of football matches and its support to tech companies in implementing the code of conduct on countering illegal hate speech online. Nevertheless, the Committee regrets the lack of specific information on steps taken by the State party to develop its own strategy to counter online hate speech. It reiterates its recommendation in this regard.

While welcoming the information provided on the investigation and prosecution of hate crimes and support to victims, the Committee regrets the lack of a specific framework to address hate crime in Curaçao and Sint Maarten, and the absence of information provided by Aruba in this regard. It therefore reiterates its recommendation with regard to Aruba, Curaçao and Sint Maarten.

The Committee welcomes the information received concerning training on racial diversity provided to judges, prosecutors and law enforcement officials in the Netherlands, as well as the training of law enforcement officials in Aruba and Sint Maarten. It requests information

on such training in Curaçao and specific information on training for judges and prosecutors in Aruba and Sint Maarten.

The Committee welcomes the measures planned or being implemented under the 2018–2021 Labour Market Discrimination Action Plan. It requests further information on the implementation of the Action Plan, including the status of the bill to oversee equal opportunities in recruitment and selection, and information on the implementation of the 2016 national action programme to combat discrimination.

The Committee welcomes the data provided on prosecutions and convictions for hate crimes, while noting that the data are not disaggregated and encompass general discrimination offences. It regrets the fact that the information does not include comprehensive data on investigations into hate crimes and requests updated data disaggregated by sex, age, ethnic origin and religion of the victims, including investigations and their results.

[C]: (f)

While welcoming efforts taken by Aruba to transform the nature of parades involving the “Black Pete” character, the Committee regrets the absence of steps taken by the Netherlands and the lack of information in that regard concerning Curaçao and Sint Maarten. The Committee reiterates its recommendation.

Paragraph 19: Refugees and asylum-seekers

Summary of the information received from the State party

(a) The Netherlands has continued its efforts to scrutinize and improve its policy on family reunification for refugees. Several internal working processes have been improved to ensure the procedure is accessible and understandable, and free legal aid is provided in family reunification cases for applicants without sufficient financial resources. Free legal aid is available after an initial denial of an application and in appeal procedures in court. Aruba has already implemented the recommendation on family reunification policy. Since the costs are minimal, the system is accessible and affordable, so there is no need for additional legal aid. Curaçao does not have a family reunification policy and is not able to provide legal aid for administrative proceedings owing to its financial situation. In Sint Maarten, all persons are entitled to free legal aid.

(b) Aruba has ratified the Protocol relating to the Status of Refugees and has adopted a national mechanism based on statute and implementing ordinances compliant with the applicable treaty standards. On 5 July 2017, the government of Curaçao adopted a policy based on article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) on the procedure for processing applications for international protection. The government of Sint Maarten is continuing its assessment of the feasibility of applying the Convention relating to the Status of Refugees and the Protocol thereto.

(c) The State party has a careful and extensive procedure to assess asylum applications on an individual basis and to prevent refoulement, in conformity with international refugee law and human rights law. The principle of non-refoulement has direct effect in Aruba and is strictly adhered to in practice. Last-minute emergency hearings occur in the event of a suspected breach. In Curaçao, an advisory working group is tasked with reviewing and advising the Minister of Justice regarding the applications made under article 3 of the European Convention on Human Rights. If the Minister issues a negative decision, there is an appeal procedure. Sint Maarten upholds the principle of non-refoulement. Although the government is unable to provide the assistance that would be provided to an asylum applicant in the territory of a contracting State, it does assess applications on a case-by-case basis and allows persons to remain in Sint Maarten if possible.

(d) The Justice and Security Inspectorate carries out investigations to provide insight into the quality of performance of tasks and compliance with rules and norms, including the principle of non-refoulement. In Aruba, in the event of a suspected or presumed breach of the principle of non-refoulement, a thorough investigation would be conducted by a

multidisciplinary team. In Curaçao, in the case of a potential violation of the principle of non-refoulement, an investigation would be conducted.

(e) The Immigration and Naturalization Service has implemented various measures to strengthen capacities and accelerate the asylum and family reunification procedures. A dedicated task force was established in April 2020 to reduce the backlog of approximately 15,000 first asylum applications. By January 2021, decisions had been taken in more than 8,000 cases, thereby significantly reducing the backlog. The task force aims to make decisions on the remaining cases by mid-2021. At the request of the government of Aruba, the Netherlands has provided financial aid, capacity-building and support for asylum procedures and the associated migration processes. In Curaçao, the advisory working group is currently working hard to clear the backlog of applications submitted under article 3 of the European Convention on Human Rights.

(f) In February 2021, the Government informed the parliament that information previously contained in the immigration system report and the comprehensive agenda on migration would be combined in an annual report entitled “State of Migration”, the first of which was published in June 2021. Aruba has already collected data on asylum-seekers and is now in the process of collecting more comprehensive data.

Committee’s evaluation

[A]: (e)

The Committee welcomes the information provided by the State party on progress achieved toward reducing the backlog of first asylum applications. The Committee requests the submission of updated information in this regard and more specific information on the backlog of family reunification applications. The Committee also requests concrete information on backlogs of asylum applications in Aruba and Curaçao.

[B]: (a), (b), (c), (d) and (f)

The Committee welcomes the information on continued efforts to implement a family reunification policy and requests further information on measures taken. It regrets the absence of frameworks for family reunification in Curaçao and Sint Maarten and reiterates its recommendation with regard to them.

While welcoming the information provided on asylum law and procedures in Aruba and Curaçao, the Committee requests additional information on plans to strengthen the legal framework on asylum in Curaçao, including with regard to ratification of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. The Committee also requests information on the status of the feasibility assessment being conducted by the government of Sint Maarten with regard to applying that Convention and that Protocol.

The Committee welcomes the information on the respective asylum frameworks in place in the Netherlands, Aruba and Curaçao and requests further information on their implementation, including statistical information on asylum decisions, appeals and forced returns, disaggregated by nationality and country of return. The Committee requests information on the status of non-refoulement within the legal framework of Sint Maarten, efforts to enshrine it within the law, and information on asylum applications received, including the number of asylum requests granted during the reporting period.

The Committee welcomes the information provided on investigations into cases of breach of the principle of non-refoulement and requests more specific information on investigations conducted, including information on investigations in Sint Maarten.

The Committee welcomes the information provided on asylum data collection in the Netherlands and Aruba and requests more specific information, including disaggregated data. The Committee regrets the absence of information concerning Curaçao and Sint Maarten and reiterates its recommendation in regard to them.

Paragraph 35: Gas extraction operations in Groningen

Summary of the information received from the State party

(a) The National Programme for Groningen includes support for projects to improve mental health. There is no progress report for the year 2019 because the programme was launched that year. The annual report for 2020 has not yet been adopted. Regarding physical safety, notably reinforcements following structural damage to homes, a bill setting out the definitive statutory rules pertaining to the reinforcement operation is currently being considered by the parliament and is expected to enter into force on 1 July 2021. On 31 March 2021, some 26,724 addresses had been registered on the worklist. Reinforcement work has been completed at 1,865 addresses.

(b) Between 19 March 2018 and 12 May 2021, the Groningen Mining Damage Institute and its predecessor processed 65,949 damage claims and awarded €977.3 million in compensation (physical damage claims and claims for loss of property value). On 29 March 2018, the Government adopted a decision to terminate gas extraction from the Groningen gas field as soon as possible. A legislative amendment concerning the final phases of gas extraction has been prepared.

(c) Inhabitants of Groningen can express their views on the draft decision taken annually by the Minister of Economic Affairs and Climate Policy on how much gas may be extracted and by what method. A draft of the legislative amendment concerning the final phases of gas extraction was recently published online, providing the opportunity to respond to the proposed amendment.

Summary of the information received from stakeholders

Groninger Bodem Beweging with the support of Stand Up For Your Rights and JustLaw

(a) Homes in Groningen are unsafe and damaged; a number of houses might collapse when a large “gasquake” occurs. The general health of the local population is declining. Each year, people die due to the stress caused by gas extraction. Since the start of the reinforcement operation in 2015, to date only 24 per cent of the 27,222 houses have been assessed and, when necessary, demolished and rebuilt or reinforced.

(b) The process of damage compensation is taking an increasingly long time. There are around 20,000 open files. After filing a new damage report, people receive a letter stating that the average waiting time is up to 13 months. The Secretary of State for Mining plans to close the gas field at the end of 2023 or early 2024. Nevertheless, owing to all the uncertainty, the situation in Groningen remains unsure. The closing of the gas field is not enshrined in law. Around 50 “gasquakes” occurred in 2022.

(c) The people of Groningen have no real means of being heard by the Government. They are not consulted appropriately in the process of ending gas drilling and compensating damages.

Committee’s evaluation

[A]: (b)

The Committee welcomes the detailed information provided on compensation claims. It requests updated information on the processing of pending claims, including waiting times. It also requests further details on the status of the legislative amendment concerning the final phases of gas extraction and the confirmed timeframe for ending gas extraction in Groningen

[B]: (a)

The Committee welcomes the information provided on mental health support measures and the reinforcement operation for structurally damaged homes. It requests more detailed and updated information, in particular on the implementation of the National Programme for Groningen and the reinforcement operation.

[C]: (c)

While noting the information provided by the State party indicating that Groningen inhabitants were able to express their opinions online regarding the legislative amendment on the final phases of gas extraction, the Committee is concerned by the reported lack of meaningful consultation with and participation of the inhabitants of Groningen in the design and implementation of the phase-out plan. The Committee reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
