

Advance version

Distr.: General
14 September 2017

Original: English

Human Rights Council

Thirty-sixth session

11-29 September 2017

Agenda item 6

Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Netherlands

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

Response of the Kingdom of the Netherlands to the 3rd cycle UPR recommendations^{1, 2}

131.17, 131.28, 131.34, 131.38, 131.39, 131.40, 131.50, 131.51, 131.52, 131.53, 131.54, 131.55, 131.56, 131.57, 131.58, 131.60, 131.63, 131.101, 131.121, 131.134, 131.140, 131.141, 131.142, 131.148, 131.155, 131.157, 131.159, 131.173, 131.181, 131.183, 131.188, 131.193, 131.195

Accepted.

131.1, 131.2, 131.3, 131.4, 131.26, 131.35, 131.36, 131.37, 131.94, 131.100, 131.114, 131.115, 131.116, 131.128, 131.129, 131.131, 131.149, 131.151, 131.152, 131.156, 131.161, 131.170, 131.196, 131.201

Noted.

131.5, 131.6, 131.7

Noted. The Government is currently studying the advice it has requested from the Council of State on an enabling draft law. A decision on ratification of OP-ICESCR will be taken by the next Dutch Government.

131.8

Noted. The Netherlands ratified the ICESCR in 1979.

131.9, 131.10, 131.11, 131.12, 131.13, 131.14, 131.15, 131.16, 131.19, 131.20, 131.153

Noted. The Netherlands decided to first launch the process leading to ratification of the OP-ICESCR.³ This Protocol not only benefits specific groups such as minors and persons with disabilities, but all citizens. Once it has acquired experience with the OP-ICESCR, the Government may decide to reexamine ratification of the OP-CRC-IC and OP-CRPD.

131.18

Noted. The Netherlands' objections against the ratification of this Convention at the time of its conclusion still prevail. However, the Netherlands is party to the similar Convention of the Council of Europe.

131.21, 131.22, 131.23

Noted. The arguments for entering these reservations still apply.

131.24

Noted. The Netherlands fully respects diplomatic courtesy and abides by the provisions of the Vienna Conventions.

131.25

Noted. However, Aruba will ratify this Convention soon.

131.27

Accepted. In line with current legislation and policy. On the basis of article 7 of the Netherlands Institute for Human Rights (NIHR) Act, the NIHR has access to all places, apart from private homes without permission from the resident.

131.29, 131.30

Noted. The current Action Plan will not be amended, but the recommendation will be considered during the development of a new one.

131.31, 131.62, 131.65, 131.66, 131.67, 131.69, 131.73, 131.74, 131.84, 131.162, 131.172

Accepted. In line with current policy. The National antidiscrimination action programme also contains specific strategies for anti-semitism, muslim hatred and anti-black racism.⁴

131.32, 131.46, 131.47

Accepted. In January 2017 a monitoring report on the first year of the National antidiscrimination action programme 2016-2020, including an overview of the progress on all separate action points, was published.

131.33, 131.174

Accepted. In line with current policy. Representatives of minority groups are frequently consulted in policy development and programming of activities on expert as well as political level.

131.41, 131.42

Accepted. The Netherlands will continue its national policy to decrease the gender wage gap.

131.43, 131.44, 131.45

Noted. Further steps than the existing national policy⁵ are currently not deemed necessary.

131.48

Noted. Current policies address discrimination on the labour market on various grounds, but not on the ground of socio-economic status.

131.49, 131.71, 131.72, 131.75, 131.76, 131.77, 131.78, 131.79, 131.80, 131.81, 131.83, 131.85, 131.91

Accepted. Combating hate crime and hate speech has been a priority during the Netherlands 2016 EU Presidency. The Netherlands actively participates in EU initiatives to fight hate speech.⁶

131.59

Noted. As part of the implementation of the UN Decade for People of African Descent, the Netherlands is taking measures to strengthen efforts to combat (anti-black) racism and thereby further the effective equality of people of African descent. However, the objective is not to adopt separate policies for people of African descent as such.

131.61, 131.86

Noted. The Public Prosecutor demands higher sentences when a crime can be qualified as a hate crime with a racist motive.

131.64

Accepted. Specific attention is paid to countering anti-Semitism in the National antidiscrimination action programme. Education on the holocaust is part of schools' curriculums.

131.68

Accepted.⁷

131.70

Accepted. Research is the basis for policy development. There have been recent studies in causes and factors influencing both muslim hatred and anti-Semitism, and labour market discrimination.

131.82

Noted. Countering terrorist propaganda is one of the focus areas of the Dutch comprehensive CT approach.

131.87, 131.179

Accepted. Human rights are part of the police academy curriculum that is mandatory for every police officer. See Annex I of the National antidiscrimination action programme.

131.88, 131.89, 131.90, 131.93

Accepted.⁸

131.92

Noted.⁹

131.95

Accepted. The action plan on labour market discrimination is ongoing and new measures are added when needed.

131.96

Accepted. Research is the basis for policy development. There have been various studies on labour market discrimination. The NIHR provides awareness raising training to employers.

131.97, 131.98

Accepted. Various measures in the action plan on labour market discrimination contribute to the fight against discrimination on this ground and others.

131.99

Noted. The rights of intersex persons are already guaranteed by the Constitution and by medical guidelines.

131.102

Noted. Article 7 of the Schengen Borders Code ensures that border guards fully respect human rights.

131.103

Accepted. In line with current policy. All municipalities have antidiscrimination services available, but improvements are currently being realised with regard to their effectiveness.

131.104

Noted. This bill was rejected by the Dutch parliament on 4 October 2016.

131.105, 131.202

Accepted. It is the aim to eliminate any unjustified differences between the Caribbean and the European part of the Netherlands. However, it is important that the islands are given sufficient time to absorb all the new statutory and other measures that are needed.

131.106

Accepted. The Netherlands is participating in the IGWG discussions, in particular through the EU. Thorough analysis has been conducted of how access to remedy for business-related human rights abuse in our judicial system measures up to the UN Guiding Principles on Business and Human Rights (GPBHR), and stand ready to share the results with interested parties.

131.107

Accepted. The Netherlands always takes allegations of human rights abuse by Dutch companies seriously, and will usually initiate a dialogue with such companies to point out their responsibilities under the GPBHR.

131.108

Accepted. The Netherlands is committed to preventing involvement of any Dutch companies in human rights abuses. To that end we engage in agreements on international responsible business conduct with Dutch companies and are jointly committed to only source sustainably produced palm oil and soy.

131.109

Accepted. The Netherlands was one of the first countries to adopt a National Action Plan on Business and Human Rights. The aim is precisely to prevent companies, particularly Dutch companies, from abusing human rights, either directly or within supply chains.¹⁰

131.110, 131.111

Noted. Under certain circumstances, Dutch companies can be held liable in civil or criminal proceedings for extraterritorial human rights abuse. In response to a thorough analysis of how our judicial system measures up to the GPBHR, a number of measures have been taken to strengthen access to remedy. However, it remains primarily the duty of the host State to protect its citizens from human rights abuse by domestic as well as transnational companies.

131.112

Accepted.¹¹

131.113

Noted. The National Counterterrorism Strategy 2016-2020 provides a joint approach to extremism and terrorism in the Netherlands, drawing on the (evaluation of the) National Counterterrorism Strategy 2011-2015. The strategy is also based on the anticipated threat situation for the 2016-2020 period, as well as knowledge and experience gained by the authorities in recent years.

131.117

Accepted. Violence has already been made punishable by law in the Penal Code of Bonaire, St Eustatius, and Saba. In addition, the punishment can be increased by one-third if the offender committed the criminal offence against his or her child (among other parties).

Corporal punishment in schools is prohibited by Aruban law. The New Civil Code includes a prohibition of corporal punishment in the family setting.

In Curaçao, legislation addressing corporal punishment already exists. Coaching for parents is also provided (Triple P programme).

131.118

Accepted.¹²

131.119

Noted. When seeking access to justice a litigant is informed about the ways in which the problem may or should be solved. If necessary the litigant is referred to relevant organisations. Other government agencies also help citizens in this way.

131.120

Noted. The Netherlands sees it as vital that suspects of atrocity crimes are brought to justice, preferably by the State within whose jurisdiction the offences were committed. To this end, the Netherlands actively contributes to the exchange of expertise in the justice sector through capacity building and Rule of Law programmes.

131.122

Noted, it being understood that the Netherlands is committed to implementing its human rights obligations, of which some may be subject to restrictions in conformity with specific conditions laid down in the conventions.

131.123

Noted. However, for the Netherlands see: 131.124 and 131.125.

131.124, 131.125

Accepted. From 2017, the National Police and the Public Prosecution Service in the Netherlands will receive additional funds to strengthen their fight against THB: €1 million in 2017 and €2 million per year from 2018 onwards.

131.126

Accepted. Law enforcement agencies are enabled to comprehensively fight all forms of human trafficking, including for sexual exploitation.

131.127

Accepted. All relevant actors are trained to identify signs of human trafficking. In the asylum centre of Ter Apel, various organisations have developed a protocol on how to act if a possible victim is identified.

131.130

Noted. National policy to decrease the gender wage gap is aimed at all women regardless of ethnic origin or religion. On principle, workers' ethnicity or religion are not registered.

131.132

Noted. The Dutch government ensures Universal health coverage for all its citizens.

131.133, 131.160

Noted. In the Netherlands no one (with or without a residence permit) is excluded from medically necessary care, including youth care. If undocumented migrants cannot afford the costs of care provided to their children, the state can compensate the care providers.

131.135

Accepted. The Netherlands will continue its efforts to promote social safety in schools, in order to combat bullying and to tackle radicalisation.

131.136

Accepted. In line with existing policy. Since 2012, primary and secondary schools have been obliged to teach about sexual diversity, sexual rights and gender equality.

131.137, 131.139

Accepted. In line with existing policy. Teaching about human rights and the foundational values of society is already part of the formal curriculum in primary and secondary education. This will be maintained during the upcoming curriculum review. Attention for inter-faith and inter-cultural dialogue can be raised in schools, among other things, through religious education and civic education.

131.138

Accepted.¹³ Teacher training is achieved through, among other things, teachers' conferences on *Bildung* and citizenship and meet-ups with teacher-educators on the development of a citizenship agenda.

131.143, 131.145

Noted. The Netherlands will continue its national policies to decrease this type of discrimination.

131.144

Accepted. A proposal to extend the paid and non-transferable paternity leave, which has to be taken within four weeks after the birth, has been presented to Parliament. Its aim is to encourage fathers to participate in their child's care right from the beginning.

131.146

Noted. National policy already pays great attention to the prevention of the gender wage gap. Vertical segregation is countered by a law regulating that big companies appoint 30% of positions on their boards to women or that they take the necessary measures to realise this goal. Horizontal segregation is being tackled by several measures, mainly aimed at encouraging girls to take up education in STEM.

131.147, 131.180

Noted. Current policies specifically address discrimination on the labour market and there are various measures to prevent discrimination in general, e.g. raising awareness and promoting diversity. There are no indications that discrimination against migrants on the housing market or in health care is a particular concern. The government assists local communities in ensuring dialogue with regard to the establishment of reception centres, as well as dealing with social tensions and polarisation.

131.150

Accepted. UN resolution 1325 on Women, Peace & Security guides the Dutch ambitions in this respect. As a UNSC member in 2018 the Netherlands will step up cooperation with others and make that cooperation more visible.

131.154

Accepted with respect to children's rights in the Caribbean.¹⁴ Noted with respect to army recruitment and the OP-CRC-IC.¹⁵

131.158

Accepted. By combating child sex tourism and trafficking in South East Asia, focusing on involved Dutch nationals, the government contributes to the protection of (potential) victims of child sex tourism and trafficking.

131.163

Noted. Convicted juveniles can either be placed in juvenile detention (max. 2 years) or in an institution for juveniles where they receive extensive treatment (max. 7 years). In both institutions the main aim of treatment is resocialisation and reintegration into society. It is prohibited to place juveniles in adult correctional centres.

131.164, 131.165

Noted. In general children under the age of 18 are tried under juvenile justice law. In special circumstances it is possible to apply regular criminal law to 16- and 17-year-olds.

131.166

Noted. The Netherlands' declaration to OP-CRC-AC still applies.

131.167, 131.168, 131.169

Noted. With the 'Social Deal' of April 2013, the employers in the private sector and public sector have guaranteed to create 125.000 extra jobs for persons with disabilities over a 10 year-period. However, this deal does not cover all persons with disabilities, but focuses on the most vulnerable groups.

131.171

Noted. To reduce restrictive measures in institutions for persons with mental and psychosocial disabilities, agreements have been reached with the sector on minimising the use of seclusion, and converting seclusion rooms to high and intensive care units or high-security rooms. A bill that should further improve the position of persons with mental and psychosocial disabilities in these institutions has been presented to Parliament.

131.175

Accepted. This is part of current national policy, notably the strategy to deal with youth unemployment.

131.176

Noted. Concrete measures to protect religious minorities are taken on the basis of estimated threats and risks, regardless of the object, person or minority concerned.

131.177

Noted. Education in the language of the country of origin, which was proven to be ineffective, was abolished in 2003. To encourage social cohesion, priority has been given to learning Dutch.

131.178

Noted. The current set of general measures is deemed sufficiently effective to ensure human rights for Roma, Sinti and traveller communities.

131.182

Accepted. Migrants who have been discriminated against in the labour market can submit their case to the NIHR. The current plan on labour market discrimination contains various measures that contribute to awareness raising and combating stereotypes.

131.184

Noted. International obligations are guaranteed in the entire territory. EU law is not applicable in the entire territory.

131.185, 131.186, 131.187, 131.189

Noted. In addition to what was stated in the National Report¹⁶, any third country national who wants to work on return can use an alternative measure to detention. Immigration detention is a measure that is only used as a last resort.

131.190

Noted. Irregular stay in the Netherlands is not a criminal offence. However, if illegal migrants do not leave voluntarily, detention could be used on strict grounds.

131.191

Noted. Oversight takes place by an independent supervisory body.

131.192

Noted. It is already practice in the Netherlands that the use of isolation cells is restricted to a minimum.

131.194

Noted. The maximum time limit set forth in the EU Return Directive is already enshrined in national law.

131.197

Accepted. The Netherlands is currently drafting a determination procedure, with input from stakeholders. Through this procedure the applicant can get a legal status as a stateless person. However, this status does not necessarily imply that the person is also granted a residence permit.

131.198

Noted. New laws and institutions are introduced at a pace that fits the specific circumstances of the Caribbean municipalities. It is constantly monitored what legislation and what institutions can be added, among which the NHRI. Pertaining to the Caribbean territories, the establishment of a similar and separate institution is considered to be an autonomous matter for those territories.

131.199, 131.203

Noted. Each of the countries of the Kingdom of the Netherlands is autonomous in its implementation of the obligations stemming from the human rights conventions. However, the countries do seek to work together to achieve the realisation of human rights throughout the entire Kingdom.

131.200

Accepted. The Netherlands and the Caribbean special municipalities are together working on protecting and promoting human rights by reducing poverty and providing minimum social security. A social economic agenda is currently being developed.¹⁷

Notes

¹ All responses to the recommendations are made by the Netherlands, with the exception of recommendations 131.25, 131.26, 131.117, 131.123, 131.154, 131.199 and 131.203, which have been responded to by the Kingdom of the Netherlands (The Netherlands, Aruba, Curaçao and Sint Maarten). However, due to extreme circumstances and damages caused by hurricane Irma in Sint Maarten, the government of Sint Maarten could not participate in finalizing this response of the Kingdom of the Netherlands to the UPR recommendations. Although its viewpoints have been incorporated into the response, rectifications from the government of Sint Maarten may follow.

² The Parliament of the country of the Netherlands has been informed of this reaction and is involved with the further follow-up of these UPR recommendations, including in the period between the submission of this response and the adoption of the outcome of the UPR of the Netherlands by the Human Rights Council.

³ See: 131.5.

- ⁴ See also: National Report, Chapter IV.A.
⁵ See: 131.41.
⁶ See also: 131.31.
⁷ See: 131.31 and 131.33.
⁸ See: National Report, pp. 18–19.
⁹ See: Annex II to the National antidiscrimination action programme and 131.88.
¹⁰ See also: 131.110.
¹¹ See: 131.107 and 131.109.
¹² See: National Report, p. 20.
¹³ See: 131.137.
¹⁴ See also: 131.117.
¹⁵ See: 131.166 and 131.9.
¹⁶ Paras. 63–65.
¹⁷ See also: 131.105.
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