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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

Netherlands

Addendum

Response of the Kingdom of the Netherlands to the recommendations it received during the universal periodic review on April 15, 2008*

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

Response of the Kingdom of the Netherlands to the recommendations it received during the universal periodic review on April 15, 2008

1) Ratify as soon as possible the International Convention on the Protection of All Persons from Enforced Disappearance (France).

The Kingdom of the Netherlands can support this recommendation. It has signed the International Convention on the Protection of All Persons from Enforced Disappearance on 29 April 2008 and will start the national process of ratification later this year.

To ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Kingdom of the Netherlands can support this recommendation and will start the national process of ratification later this year.

To ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (Brazil)

The Kingdom of the Netherlands can support this recommendation and has already started the national process of ratification. The Protocol is currently under review in Parliament and it is expected that the ratification process will be completed early in 2009.

To set clear time frames in this regard, and that the Human Rights Council be informed accordingly (Russian Federation).

See the above answers.

2) Initiate a debate on the death penalty, with a view to reaching responsive conclusions consistent with international human rights law (Egypt).

The Kingdom of the Netherlands firmly opposes the death penalty everywhere. Capital punishment was abolished in the Netherlands in 1870. This principle is enshrined in the Constitution and applies even in wartime. The Kingdom of the Netherlands pursues the worldwide abolition of the death penalty partly through its bilateral foreign policy and more importantly through close cooperation with its EU partners. The Kingdom of the Netherlands therefore can not support this recommendation.

3) Reconsider the legality of prostitution given its impact on the realization of a whole range of rights (Egypt).

The regulation of the sex industry enables the government to exercise more control over the sex industry and to counter abuses. This approach is in the interest of the sex workers and it facilitates action against sexual violence, sexual abuse and human trafficking. Due to evaluations and information coming from criminal cases the government announced new measures in the area of stricter control and law enforcement. Special protection and care will be provided for victims and women wishing to leave the industry. The Kingdom of the Netherlands therefore can not support this recommendation.

4) That a mechanism be established with a view to verifying that political parties and social institutions do not adopt racist or xenophobic programmes (Egypt).

The Kingdom of the Netherlands finds it difficult to support this recommendation because it does not have any preventive or precautionary supervision on political parties and their ideas or programmes. However, political parties do have to respect the law and the dissolution of political parties is possible by judicial decision only. It has already occurred in the past that a political party was dissolved after it was found guilty of racial discrimination.

5) Lawmakers discharge their responsibility under the International Covenant on Civil and Political Rights, in particular with regard to the prohibition of incitement to hatred by law, and enacting the necessary restrictions to protect the rights of others (Egypt).

The Kingdom of the Netherlands can support this recommendation. Articles 137c to 137e of the Dutch Criminal Code prohibit hate speech or other means of inciting hatred. In general it is prohibited to insult someone (article 261-271 Dutch Criminal Code). The rights of others are not only protected by criminal law, but also by fundamental rights of others (case law offers good insight into specific situations in which one fundamental right weighs more heavily than another) and civil law on unlawful act, in particular the damage of someone's honour and good name.

6) Take appropriate measures to prevent the use of excessive force by security forces when forcibly repatriating migrants, refugees and asylum-seekers (Nigeria).

The Kingdom of the Netherlands can support this recommendation. Many safeguards apply to exceptional situations in which the use of limited and proportional force by expulsion of persons is allowed. An independent committee supervises the process regarding return, including forced expulsions and the use of force. Recently it concluded that no structural excessive force is used in the process of expulsion. In addition, the committee made recommendations to further limit the necessity the use of force in individual cases. These recommendations were used to further improve the process of return and forced expulsions.

7) Accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Egypt, Peru, Algeria).

The Kingdom of the Netherlands has not signed this convention because it is opposed in principle to rights that could be derived from it by aliens without legal residence rights. The Kingdom of the Netherlands therefore can not support this recommendation.

and to increase its efforts to prevent acts of discrimination against migrants (Algeria).

The Kingdom of the Netherlands can support this recommendation. The legislative structure in the Netherlands to combat all forms of discrimination, including racism and discrimination on the ground of religion, is being enhanced by the development of a national network of antidiscrimination bureaus. These bureaus can assist victims of discrimination, register all complaints of discrimination and raise awareness on a local level. The antidiscrimination bureaus work together with the police and the prosecutor's office to prosecute discrimination. A law to oblige all municipalities to install an antidiscrimination bureau has been sent to Parliament.

8) Continue efforts to intensify the investigation and prosecution of racial hatred and related violence through criminal legal proceedings and other measures (Canada) and to implement all the articles of International Convention on the Elimination of All Forms of Racial Discrimination (Cuba).

The Kingdom of the Netherlands can support these recommendations and will continue to intensify the investigation and prosecution of racial hatred and related violence through criminal legal

proceedings and other measures. Extensive information on the implementation of the convention in the Netherlands has been submitted to CERD in November 2007.

9) Ensure that information on the implementation of human rights conventions in the overseas territories be consistently included in reports to treaty bodies (United Kingdom, Russian Federation, Algeria)

The Kingdom of the Netherlands can support this recommendation. It is committed to submit one report covering all three countries and will do its utmost to ensure that future reports will be covering the entire Kingdom.

10) Consider withdrawal of reservations with respect to the Convention on the Rights of the Child (Russian Federation)

The Kingdom of the Netherlands will not withdraw its reservations with regard to Articles 26, 37 subsection c, and 40 of the Convention on the Rights of the Child. The reasons for these reservations remain relevant and the Kingdom can therefore not support this recommendation.

Consider withdrawal of reservations with respect to the International Covenant on Economic, Social and Cultural Rights with regard to the Netherlands Antilles (Russian Federation, Algeria)

The Government of the Netherlands Antilles has this matter under consideration. The Government of the Kingdom of the Netherlands will inform the Treaty Body about its progress in the next ICESCR report.

11) Strengthen rules and regulations with regard to hatred, defamation of religions and Islamophobia (Islamic Republic of Iran). Enforce legislation on equality and non-discrimination and adopt measures to combat Islamophobia (Saudi Arabia)

The Kingdom of the Netherlands can support the recommendation to promote tolerance and combat discrimination on all grounds but will not develop additional rules and regulations with regard to hatred, defamation of religion and Islamophobia. The Dutch constitution and legislation provide herein adequately. However, the prevention and combating of discrimination, including combating of Islamophobia, has the government's special attention and a policy plan is currently being developed that aims at combating racial discrimination on the labour market, to intensify the prosecution of racial hatred by law enforcement and criminal investigation, in law enforcement, criminal investigation and on the Internet. Furthermore, the government facilitates a public debate to promote knowledge and mutual respect and understanding of the wide range of (religious) beliefs, convictions, norms and values that prevail in Dutch society and to help strengthen peoples' abilities to solve problems in a constructive and peaceful manner.

12) To promote and strengthen the foundation of the family and its values among the society (Islamic Republic of Iran).

The Kingdom of the Netherlands can support this recommendation which already gets all necessary attention. Families in all their various manifestations play a crucial role in society. The government's job is to create the right conditions for families to play their role successfully. Since February 2007, the Netherlands has a Ministry for Youth and Families. In June 2007, the Dutch Government published its Youth and Family program.

13) Take a leading role in setting the tone of the current national debate on integration issues and have the voices of migrants and other groups also be heard (Turkey). Continue to engage in a

national dialogue with a view to promoting respect for diversity and tolerance and consider establishing an institutional mechanism to ensure respect for diversity and tolerance (India).

The Kingdom of the Netherlands can support the recommendation to take a leading role in setting the tone of the debate. It continues to engage in dialogues on the national and local levels with minority and religious organisations to promote respect and tolerance. The Kingdom of the Netherlands however, can not support the recommendation to establish additional institutional mechanisms to ensure respect for diversity and tolerance.

See also the response to recommendation 7 and 11

14) Complete investigations about civil and criminal implications concerning the release of the film 'Fitna' and initiate prosecution of the author in accordance with Dutch law (Pakistan).

The investigation with regard to civil proceedings has been completed and led to the conclusion that civil proceedings will not be started. The investigation with regard to possible criminal proceedings is still in progress.

15) Consider formulating measures that would recognize that a truly meaningful enjoyment of the right to freedom of expression is only realized when exercised with responsibility (Malaysia) and undertake proactive measures aimed at preventing the instrumentalization of the freedom of expression to justify campaigns of incitement to racial hatred and violence in the Netherlands (Algeria);

The Kingdom of the Netherlands can not support these recommendations and will not take proactive measures. The freedom of expression however, although an important fundamental right, is not unlimited. Expressions which are gratuitously offensive and do not contribute to the public debate, are liable for punishment under the Dutch Criminal Code. It is one's responsibility not to exceed these boundaries of the freedom of expression.

16) Ensure the inclusion of a gender perspective in the follow-up to the UPR (Slovenia).

The Kingdom of the Netherlands can support this recommendation and will act conformingly.

17) Take part in international activities to promote and protect human rights on the basis of equitable and mutual respect for dialogue (Belarus).

The Kingdom of the Netherlands can support this recommendation in the sense that it too prefers to promote and protect human rights on the basis of equitable and mutual respect for dialogue. The universal periodic review is a good example how this can be materialised. However, this does not deprive states of the right to make use of other measures like special debates, statements or resolutions in cases of grave or continuous human rights violations.

18) Undertake consistent efforts to counter racism and promote social and religious cohesion (Indonesia).

The Kingdom of the Netherlands can support the recommendation to counter racism and promote social cohesion. Combating discrimination in all forms is one of the priorities of the government which is preparing a Policy Plan to combat racism that will be presented to Parliament in mid-2008. Dutch integration policy is aimed at enforcing social cohesion between ethnic groups in society.

The Kingdom of the Netherlands can not support the recommendation to promote religious cohesion. Diversity (including religious pluralism) is embedded in the Constitution. Freedom of religion means the freedom to practice one's own religion, but also the obligation to respect the religious beliefs of others and to accept apostasy and the fact that some people may have no religious beliefs at all.

See also the responses to recommendations 11 and 13

19) Consider implementing the recommendations of the Special Rapporteur on violence against women and CEDAW (India).

The Kingdom of the Netherlands can support this recommendation. Many recommendations of the Special Rapporteur have already been implemented or are in the process of implementation. The Netherlands is e.g. in the process of ratifying the Council of Europe Treaty against Human Trafficking. Furthermore, in the field of domestic violence, to further stimulate knowledge and awareness of the gender-related character of domestic violence an information process is initiated in an interdepartmental context under coordination of the ministry of Justice. With regard to recommendations in the field of honour related violence, special school education programs are being developed or funded. The Kingdom of the Netherlands will inform Member States in detail on the implementation of the CEDAW recommendations in its forthcoming 5th report to CEDAW.

Strengthen measures to increase the participation by ethnic minority women in line with CEDAW recommendations, and consider intensifying human rights education (Ghana).

The Kingdom of the Netherlands can support this recommendation which is already being implemented in a government action plan called 'Emancipation and Integration'. The Kingdom of the Netherlands will inform Member States in detail on the implementation of the CEDAW recommendations in its forthcoming 5th report to CEDAW.

20) Continue to promote awareness of diversity and multiculturalism at all levels of education (Algeria, Republic of Korea).

The Netherlands can support and is already implementing this recommendation. Dutch schools are obliged by law to promote active citizenship and social integration in the curriculum and to let their students experience multiculturalism within their peer groups.

21) Address the issue of demand in the destination country in order to be successful in the fight against trafficking in persons (Bangladesh).

The Kingdom of the Netherlands can support this recommendation. In order to raise awareness with employers on human trafficking, government will initiate an information campaign targeting employers. Other measures include strengthening of the Labour Inspectorate and Special Investigation Services in the control and enforcement of forced labour and cross-border cooperation between countries of origin and countries of destination which we already practised with Nigeria. However, push and pull factors for human trafficking need to be addressed by both destination countries and countries of origin.

22) While promoting the rights of freedom of opinion and expression, pay due attention to commiserating responsibility and respect for others (Bangladesh).

The Kingdom of the Netherlands can support the recommendation.

See also the response to recommendation 15

23) Review its legislation in order to protect fundamental rights of all persons, independently of their migrant status, and take necessary measures regarding discrimination against women refugees, migrants and women from ethnic groups, and to guarantee the integration of all female children (Mexico)

See the response to recommendation 7

24) Establish or strengthen the machinery for reviewing the accelerated procedure of 48 hours in order to guarantee the rights of the asylum-seekers (Mexico).

The Kingdom of the Netherlands can support this recommendation and implementation is already in progress. In its coalition agreement, dated 7 February 2007, the government has undertaken to improve the asylum procedure, particularly the accelerated procedure of 48 hours. The review of the asylum procedure will also focus on speeding up of the standard asylum procedure. The government intends to present the plans in June 2008.

25) To ensure proper representation of minorities in the labour market as per the ratio of minorities (Algeria).

The Kingdom of the Netherlands can support the recommendation to ensure a better presentation of minorities in the labour market but will not take specific measures aimed at quota or ratio. It is the government's opinion that everybody has to participate in the labour market regardless of sex, race, nationality, religion, age etc. Government does however give special attention to non-Western minorities facing problems in the labour market, by offering help through education, language classes, social networking and job search training.

26) Undertake an in-depth study on trafficking and exploitation of children, particularly with regard to sexual abuse, child prostitution and child pornography, as a basis for urgent remedial action in this regard (Algeria).

The Kingdom of the Netherlands can support this recommendation which already has been implemented. Over the last years several studies on child trafficking and related problems such as child abuse and prostitution have been carried out by e.g. the international ngo ECPAT (elimination of child prostitution, child pornography and the trafficking of children for sexual purposes) and the Dutch Ministry of Justice. On a more regular basis attention is being paid to child victims of trafficking in annual reports of our National Rapporteur Human Trafficking and of Comensha (an organisation responsible for registration and assistance of victims of trafficking).

27) Accelerate efforts in increasing female representation in top positions in the senior public service to 25 per cent by 2011 (South Africa).

The Kingdom of the Netherlands can support this recommendation and has set female representation in all positions in the senior public service as a policy goal for its present term (2007-2011) with an emphasis on top positions. The government will also evaluate the different ministries' equal opportunities policies in 2010.

28) Take legal measures to deal with intolerance and initiate an awareness-raising campaign for the society at large to ensure a more generalized tolerance (Jordan).

The Kingdom of the Netherlands can support the recommendation to initiate an awareness raising campaign for the society at large which will be launched in 2009. Aimed at equal treatment, this campaign will also inform victims of discrimination that they can find assistance at a municipal antidiscrimination bureau where they can also officially register a complaint.

The Kingdom of the Netherlands sees no need to support the recommendation to take legal measures to deal with intolerance because a comprehensive legal framework is already in place.

29) While implementing anti-terrorism measures, respect international human rights obligations, including the right to a fair trial and the right to freedom and security of the person (Switzerland); and consider revising all anti-terrorism legislation to bring it in line with the highest human rights standards (Cuba).

The Kingdom of the Netherlands can support this recommendation which has already been implemented. Over the past years, the Netherlands have enacted several legislative measures to enhance the combat against terrorism. The Dutch government strongly believes that even the most threatening forms of terrorism should be fought against within the framework of the constitutional rights and freedom of individuals. A number of checks are built into the legislative process at various stages to assess the compatibility of new legislation with fundamental rights. The Kingdom of the Netherlands considers the anti-terrorism legislation to be in full compliance with the standards of international human rights law.

30) Take necessary steps to establish a national human rights institution (New Zealand).

The Kingdom of the Netherlands can support this recommendation. A formal decision by the Dutch government about the establishment of a national human rights institution in line with the Paris Principles is expected this summer.

31) Work on promoting a society of tolerance through educational measures (Saudi Arabia).

The Kingdom of the Netherlands can support and is already implementing this recommendation. See also the response to recommendation 20
