

## **THE NETHERLANDS**

### **Follow-up - Jurisprudence**

#### **Action by Treaty Bodies**

**CERD, A/61/18 (2006)**

### **Chapter VII. Follow-up to Individual Communications**

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487. The table below shows a complete picture of follow-up replies from States parties received up to 18 August 2006, in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. This table, which will be updated by the Rapporteur on an annual basis, will be included in future annual reports of the Committee.

488. The categorization of follow-up replies by States parties is not always easy. It is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or only relate to certain aspects of these recommendations.

489. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 22 complaints and found violations of the Convention in 9 cases. In 8 cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

<b>State party and number of cases with violation</b>	<b>Communication, number, author and location</b>	<b>Follow-up response received from State party</b>	<b>Satisfactory response</b>	<b>Unsatisfactory response</b>	<b>No follow-up response received</b>	<b>Follow-up dialogue still ongoing</b>
...						
Netherlands (2)	1/1984, A. Yilmaz-Dogan				X (never requested by the Committee)	
	4/1991, L.K.				X (never requested by the Committee)	
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## Annex V

### Cases in which the Committee adopted recommendations and follow-up information provided in relation thereto

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State party	The Netherlands
Case and No.	A. Yilmaz-Dogan, 1/1984
Opinion adopted on	10 August 1988
Issues and violations found	Equality before the law in respect of the right to work, obligation of State party to prosecute - article 5 (e) (I)
Remedy recommended	The Committee on the Elimination of Racial Discrimination, acting under article 14, paragraph 7, of the Convention, is of the opinion that the information as submitted by the parties sustains the claim that the petitioner was not afforded protection in respect of her right to work. The Committee suggests that the State party take this into account and recommends that it ascertain whether Mrs. Yilmaz–Dogan is now gainfully employed and, if not, that it use its good offices to secure alternative employment for her and/or to provide her with such other relief as may be considered equitable.
Date of examination of report(s) since adoption	Eleventh and twelfth on 5 and 6 March 1998, thirteenth and fourteenth on 8, 9 and 16 August 2000 fifteenth and sixteenth on 14 March 2004
Due date for State party response	None
Date of reply	N/A
State party response	None
Author's response	None
Further action/Committee's recommendation	None - Case too old to request information of the State party

<b>State party</b>	<b>The Netherlands</b>
Case and No.	L.K. 4/1991
Opinion adopted on	16 March 1993
Issues and violations found	Threats constituting incitement to racial discrimination - article 4(a), 6
Remedy recommended	<p>The Committee recommends that the State party review its policy and procedures concerning the decision to prosecute in cases of alleged racial discrimination, in the light of its obligations under article 4 of the Convention.</p> <p>The Committee further recommends that the State party provide the applicant with relief commensurate with the moral damage he has suffered.</p> <p>Pursuant to rule 95, paragraph 5, of its rules of procedure, the Committee invites the State party, in its next periodic report under article 9, paragraph 1, of the Convention, to inform the Committee about any action it has taken with respect to the recommendations set out above.</p>
Date of examination of report(s) since adoption	<p>Eleventh and twelfth on 5 and 6 March 1998</p> <p>Thirteenth and fourteenth on 8, 9 and 16 August 2000</p> <p>fifteenth and sixteenth on 14 March 2004</p>
Due date for State party response	None
Date of reply	N/A
State party response	None
Author's response	None
Further action/Committee's recommendation	None - Case too old to request information of the State party



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**VII. FOLLOW-UP TO INDIVIDUAL COMMUNICATIONS**

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523. The table below shows a complete picture of follow-up replies from States parties received up to 17 August 2007, in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. This table, which will be updated by the Rapporteur on an annual basis, will be included in future annual reports of the Committee.

524. The categorization of follow-up replies by States parties is not always easy. It is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or only relate to certain aspects of these recommendations.

525. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 23 complaints and found violations of the Convention in 10 cases. In eight cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue still ongoing
...						
Netherlands (2)	1/1984, A. Yilmaz-Dogan				X (never requested by the Committee)	
	4/1991, L.K.				X (never requested by the Committee)	
...						

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**CHAPTER VII. FOLLOW-UP TO INDIVIDUAL COMMUNICATIONS**

536. In the past, the Committee only informally monitored whether, how or the extent to which States parties implemented its recommendations adopted following the examination of communications from individuals or from groups of individuals. In light of the positive experiences of other treaty bodies, and following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1, available on the OHCHR website), the Committee decided, at its sixty-seventh session,<sup>1</sup> to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

537. Also at its sixty-seventh session, the Committee decided to add two new paragraphs to its rules of procedure.<sup>2</sup> On 6 March 2006, at its sixty-eighth session, Mr. Linos-Alexandre Sicilianos was appointed Rapporteur for follow-up to opinions. He presented a report to the Committee with recommendations on further action to be taken. This report, which was adopted by the Committee at its sixty-ninth session, has been updated (see annex V) and reflects all cases in which the Committee found violations of the Convention or where it provided suggestions or recommendations although it did not establish a violation of the Convention. During the seventy-second session Mr. Régis de Gouttes was appointed Rapporteur for follow-up to opinions.

538. The table below shows a complete picture of follow-up replies from States parties received up to 17 August 2007, in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. This table, which will be updated by the Rapporteur on an annual basis, will be included in future annual reports of the Committee.

539. The categorization of follow-up replies by States parties is not always easy. It is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or only relate to certain aspects of these recommendations.

540. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 25 complaints and found violations of the Convention in 10 cases. In eight cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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1/ See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18* (A/60/18), annex IV, sect. I.



2/ Ibid., annex IV, sect. II.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Netherlands (2)	1/1984, A. Yilmaz-Dogan  4/1991, L.K.				X (never requested by the Committee)  X (never requested by the Committee)	
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## **CERD, A/64/18 (2009)**

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### **Chapter VII Follow-up to Individual Communications**

64. At its sixty-seventh session,<sup>1</sup> following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1), the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

65. At the same session, the Committee decided to add two new paragraphs to its rules of procedure setting out details of the procedure.<sup>2</sup> On 6 March 2006, at its sixty-eighth session, Mr. Sicilianos was appointed Rapporteur for follow-up to opinions, succeeded by Mr. de Gouttes with effect from the seventy-second session. The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual report to the General Assembly, reflect all cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations.

66. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. Such categorization is not always easy. In general, replies may be considered satisfactory if they reveal a willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies which do not address the Committee's recommendations or only relate to certain aspects of these recommendations are generally considered unsatisfactory.

67. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 27 complaints and found violations of the Convention in 10 cases. In nine cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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<sup>1</sup> See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV, sect. I

<sup>2</sup> Ibid., annex IV, sect. II.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Netherlands (2)	1/1984, A. Yilmaz-Dogan  4/1991, L.K.				X (never requested by the Committee)  X (never requested by the Committee)	
...						

## **CERD, A/65/18 (2010)**

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### **Chapter VII Follow-up to Individual Communications**

68. At its sixty-seventh session,<sup>1</sup> following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1), the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

69. At the same session, the Committee decided to add two new paragraphs to its rules of procedure setting out details of the procedure.<sup>2</sup> On 6 March 2006, at its sixty-eighth session, Mr. Sicilianos was appointed Rapporteur for follow-up to opinions, succeeded by Mr. de Gouttes with effect from the seventy-second session. The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual report to the General Assembly, reflect all cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations.

70. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. Such categorization is not always easy. In general, replies may be considered satisfactory if they reveal a willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies which do not address the Committee's recommendations or only relate to certain aspects of these recommendations are generally considered unsatisfactory.

71. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 28 complaints and found violations of the Convention in 11 cases. In nine cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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<sup>1</sup> See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV, sect. I.

<sup>2</sup> Ibid., annex IV, sect. II.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Netherlands (2)	1/1984, A. Yilmaz-Dogan  4/1991, L.K.				X (never requested by the Committee)  X (never requested by the Committee)	
...						