



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE  
Forty-third session 2010  
2-20 November 2009

**List of issues prior to the submission of the sixth periodic report of  
THE NETHERLANDS (CAT/C/NLD/6)\***

**Specific information on the implementation of articles 1 to 16 of the Convention, including  
with regard to the previous recommendations of the Committee\*\***

**EUROPEAN PART OF THE KINGDOM**

**Article 2**

1. In light of the Committee's previous concluding observations, please provide information on measures taken to ensure that persons in police custody benefit from an effective right of access to a lawyer, from the outset of their deprivation of liberty, particularly where video or audio recording of interrogations, which cannot in anyway substitute for the presence of legal counsel, are not in place (para. 6). Please provide information as to whether a person in police custody, immediately upon his arrest, is informed of his right to legal counsel and his right not to testify against himself. Furthermore, please provide information on steps taken to guarantee persons in police custody an effective right of access to an independent medical doctor, if possible, of their own choice, as well as the right to inform a relative from the outset of their detention.

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\* The present list of issues was adopted by the Committee at its forty-third session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

\*\* Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/NET/CO/4.

2. Please describe steps taken to provide an absolute time limit for the detention of all foreign nationals under alien legislation.
3. Please indicate steps taken to reduce the length of pretrial detention.
4. In light of the previous concluding observations of the Committee on the Rights of the Child, please describe steps taken to eliminate the possibility of trying children as adults (CRC/C/NLD/CO/3, paras. 77-78).
5. Since the consideration of the previous report, please indicate any steps taken by the State party to establish an independent national human rights institution, in accordance with the Paris Principles.

### **Article 3**

6. Please elaborate on the status and content of the proposal for a new asylum procedure. In particular, please indicate if:
  - (a) This accelerated procedure for the review of asylum applications in eight days has or will become the standard procedure for all asylum procedures;
  - (b) The procedure enables a thorough and adequate assessment of asylum applications by allowing a period of time adequate for the presentation of evidence;
  - (c) Applications from all asylum-seekers, in particular children, undocumented applicants and other vulnerable groups are processed in such a way that those in need of international protection are not exposed to the risk of being subjected to torture. Has the State party established criteria to assess which cases have to be processed under the accelerated procedure?
  - (d) All asylum-seekers have access to an interpreter as well as to adequate legal assistance and may be, as appropriate, assisted by the same lawyer from the preparation of the first interview to the end of the proceedings;
  - (e) The procedures with regard to required supporting documentation for asylum are clarified;
  - (f) The appeal procedures entail an adequate review of rejected applications and permit asylum-seekers to present facts and documentation which could not be made available, with reasonable diligence, at the time of the first submission;
  - (g) Medical reports are taken into account as part of the asylum procedure.
7. Please clarify the decision to no longer automatically entitle asylum-seekers from central and southern Iraq to protection in the Netherlands, as well as reports of forced returns of asylum-seekers to Iraq in 2008.

8. Please provide data, disaggregated by age, sex and ethnicity, on:
- (a) The number of asylum applications registered and the number of applications processed respectively under the normal and accelerated procedures;
  - (b) The number of applications accepted;
  - (c) The number of applicants whose application for asylum was accepted on grounds that they had been tortured or might be tortured if returned to their country of origin, and also on asylum granted on grounds of sexual violence;
  - (d) The number of cases of refoulement or expulsion.

#### **Articles 5 and 7**

9. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

#### **Article 10**

10. With reference to the Committee's previous concluding observations:
- (a) Please provide information on further educational programmes developed and implemented by the State party to ensure that law enforcement personnel and justice officials are fully aware of the provisions of the Convention (para. 14).
  - (b) Please indicate if the State party has developed and implemented a methodology to evaluate the implementation of these training/educational programmes, and its effectiveness and impact on the incidence of cases of torture, violence and ill-treatment. If so, please provide information on the content and implementation of such methodology, as well as on the results of the implemented measures.

11. Please describe steps taken to integrate the Istanbul Protocol of 1999 in the training programmes provided to physicians and all other professionals involved in the investigation and documentation of torture in asylum procedures, in particular in cases where asylum-seekers allege they have been subjected to torture in their country of origin, as recommended by the Committee in its previous concluding observations (para. 8). Data should also be provided on the number of professionals that have received such training.

#### **Article 11**

12. Please provide information on any new interrogation rules, instructions, methods and practices, as well as arrangements for custody, that may have been introduced since the consideration of the last periodic report, and the frequency with which they are reviewed.

13. In light of the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in the report on its visit to the Netherlands in June 2007 (CPT/inf (2008) 2, Visit to the Kingdom in Europe, paras. 58-70), please indicate measures taken to:

- (a) Accommodate immigration detainees in specifically designed centres with a full community regime, offering material conditions and a regime appropriate to their legal status;
- (b) Cease the use of boats as facilities for immigration detainees;
- (c) Ensure adequate medical care for immigration detainees.

14. Please provide information on:

(a) Steps taken to ensure that detention of unaccompanied children and families with children is only used as a measure of last resort. In this respect, information should be provided on steps taken to ensure that when the age of an unaccompanied child is uncertain, verification should be made before placing the child in detention;

(b) Any further steps taken to prevent the disappearance of asylum-seeking children, and provide culturally sensitive family services, adequate housing and education for asylum-seeking and refugee children, including young returnees awaiting expulsion.

#### **Articles 12 and 13**

15. Please provide detailed information on:

(a) Further measures taken to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment in detention facilities, including immigration detention centres, as well as measures to bring the perpetrators to justice and compensate the victims appropriately;

(b) Whether these investigations are undertaken by an independent body and all suspects in prima facie cases of torture and ill-treatment are, as a rule, suspended or reassigned during the investigation, as well as if records are kept of all steps taken during the investigation;

(c) Steps taken to draw up and implement a comprehensive procedure on how to deal with allegations of ill-treatment by prison officers, as recommended in the CPT report (paras. 31-38). Please elaborate on the content, in particular if the above-mentioned guarantees are provided, and on implementation of the procedure;

Information should be provided on the impact of these measures in reducing cases of ill-treatment in detention facilities, including immigration detention centres.

16. Please indicate further efforts undertaken to investigate and prosecute racial hatred and related violence through criminal legal proceedings.

17. In light of the Committee's previous concluding observations, please provide detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on related investigations, prosecutions, and penal or disciplinary sanctions (para. 17). Statistics should also be provided on the number of pretrial detainees and convicted prisoners, disaggregated by crime, ethnicity, age and sex.

#### **Article 14**

18. Please provide information on redress and compensation measures, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2004. This information should include the number of requests made, the number granted, the amounts of compensation ordered and those actually provided in each case.

#### **Article 16**

19. Please provide information on the content and implementation of the recommendations made by an independent committee to improve the process of return and forced expulsion and to limit the use of force in the process of expulsion. Furthermore, data should be provided on the impact of these measures in reducing the use of excessive force in this process.

20. Please provide updated information on steps taken to ensure that deprivation of liberty of juvenile offenders is only used as a measure of last resort and for the shortest appropriate period of time. Information should also be provided on steps taken to improve the regime in youth detention facilities through, inter alia, reviewing the regulations on the use of mechanical means of restraint on juveniles as well as improving the regime afforded to juveniles in an intensive care or forensic observation and guidance unit (FOBA).

21. Please provide updated information on:

(a) Measures taken to adequately prevent, combat and punish violence against women and children, including domestic violence. In this respect, please elaborate on the content and implementation of the programme "Dealing with Domestic Violence", and its impact and effectiveness in reducing cases of domestic violence;

(b) The protection provided by the State party to victims of such acts, including access to medical, social and legal services and temporary accommodation. Data should be provided on the number of victims that have received such protection and the specific form of protection they received.

22. Please provide updated information on:

(a) Measures taken to adequately prevent and combat trafficking in persons, and to prosecute and punish such acts. In this respect, please provide updated information on the implementation of the National Action Plan to Combat Trafficking in Human Beings of December 2004 and the work of the Human Trafficking Task Force, established in 2008;

(b) The implementation and the resources made available for the implementation of these measures. Furthermore, information should also be provided on the impact and effectiveness of the measures in reducing cases of human trafficking.

23. In light of the previous concluding observations of the Committee on the Rights of the Child, please provide updated information on efforts undertaken to reduce and prevent the occurrence of sexual exploitation and trafficking of children and child sex tourism (para. 74). Do these measures include, inter alia, a comprehensive study and data collection of the occurrence and dimension of the problems; implementation of comprehensive strategies and policies; prosecution of the perpetrators; and training of law enforcement officials, social workers and prosecutors on how to receive, monitor and investigate complaints in a child-sensitive manner? Furthermore, information should be provided on the impact and effectiveness of these measures in reducing cases of sexual exploitation and trafficking of children.

24. Please provide detailed statistical data on the number of complaints relating to domestic violence and trafficking, and on related investigations, prosecutions, and sanctions, as well as on the protection provided to victims.

25. Please provide information on steps taken to:

(a) Establish mechanisms to monitor the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation of children, including within the family, in institutional or other care;

(b) Ensure that professionals working with children receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children;

(c) Strengthen support for victims and provide access to adequate services for recovery, counselling and other forms of reintegration;

(d) Implement the 2007 National Action Plan on Tackling Child Abuse in the Netherlands.

Furthermore, information should be provided on the impact and effectiveness of these measures in reducing cases of child abuse.

### **Other issues**

26. Please indicate the concrete measures taken since the previous concluding observations towards the ratification of the Optional Protocol to the Convention, which the State party signed on 3 June 2005. Please elaborate on the reasons why the State party has not yet ratified this Protocol.

27. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and describe how it has ensured that those measures comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers; the number and types of convictions under such legislation; the legal safeguards available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

### **ARUBA**

#### **Article 2**

28. In light of the Committee's previous concluding observations, please provide information on measures taken to reduce the number of non-convicted detainees and the length of pretrial detention, including through the use of alternative measures (para. 10).

29. Please provide information on measures taken to ensure that persons in detention, including under aliens legislation, benefit from an effective right of access to a lawyer and a medical doctor, if possible, of their own choice as well as the right to inform a relative, from the outset of their deprivation of liberty.

30. Please indicate steps taken to ensure that comprehensive custody records, including when and for what reason(s) the custodial measure was taken and when the person arrived on police premises, are introduced and diligently kept at police stations, as recommended by the CPT (CPT/inf (2008) 2, Visit to Aruba, para. 38).

#### **Article 10**

31. In light of the Committee's previous concluding observations, please describe measures taken to send a clear and unambiguous message to the police force and to prison staff that torture, violence and ill-treatment are unacceptable; as well as to develop and implement training and instructions to ensure that police officers use no more force than is reasonably necessary (para. 13).

#### **Article 11**

32. Please describe steps taken to improve detention conditions, including through developing activities for prisoners and providing adequate health care. Please also elaborate on the impact on detention conditions in Aruba of the revision of the Police Order on the Treatment of Detainees.

### **Articles 12 and 13**

33. Pursuant to the Committee's previous concluding observations (para. 13), please describe measures taken to:

(a) Investigate promptly, impartially and thoroughly all complaints submitted and, if appropriate, prosecute the perpetrators;

(b) Guarantee that those who report assaults by law enforcement officials are protected from intimidation and possible reprisals for making such reports.

Please also provide detailed statistical data on the number of complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on the related investigations, prosecutions, and penal or disciplinary sanctions.

34. With reference to the Committee's previous concluding observations, please describe steps taken to establish specific mechanisms to receive complaints of sexual abuse that will ensure the privacy of victims and protect both victims and witnesses against ill-treatment or intimidation as a consequence of the complaint (para. 12). In this respect, please provide updated information on the implementation of the code of conduct with regard to unwanted behaviour and contacts in correctional facilities between inmates, as well as between staff and inmates, and the impact thereof, specifically in regard to the complaints procedure for sexual harassment and sexual intimidation.

### **Article 16**

35. In its previous concluding observations, the Committee on the Rights of the Child expressed its concern that the State party considered that sexual exploitation of children was not a problem in Aruba (CRC/C/NLD/CO/3, para. 73). Please provide updated statistical data on the occurrence of sexual abuse of children in Aruba as well as on measures taken to reduce and prevent its occurrence. In this respect, information should also be provided on the impact of the Sexual Offences and Stalking (Criminalisation) Ordinance in reducing cases of sexual abuse of children.

36. Please describe steps taken by the State party to prohibit corporal punishment by law and enforce the prohibition in all settings, including in the family, the schools and out-of-home placements.

37. In light of the Committee's previous concluding observations, please provide information on steps taken to reinforce international cooperation mechanisms to fight trafficking in persons, prosecute perpetrators in accordance with the law, and provide adequate protection and redress to all victims (para. 15). Furthermore, information should be provided on the impact and effectiveness of these measures in reducing cases of trafficking.



## THE NETHERLANDS ANTILLES

### Article 2

38. In light of the Committee's previous concluding observations, please provide information on measures taken to reduce the number of non-convicted detainees and the length of pretrial detention, including through the use of alternative measures (para. 10).

39. Please provide information on measures taken to ensure that persons in detention, including under aliens legislation, benefit from an effective right of access to a lawyer and an independent medical doctor, as well as the right to inform a relative, from the outset of their deprivation of liberty. In its previous concluding observations, the Committee expressed its concern in particular about the fact that the presence of a lawyer during interrogation is only permitted with the prior authorization of a magistrate (para. 6). Please provide information on steps taken to address this concern.

### Article 10

40. Please inform the Committee on steps taken to prevent and punish ill-treatment of detainees by police and other authorities in charge of prisons, as well as to ensure that prison personnel receive adequate training, including with regard to the application of the Standard Minimum Rules for the Treatment of Prisoners. Furthermore, information should be provided on the impact and effectiveness of these measures in reducing cases of ill-treatment of detainees.

### Article 11

41. Pursuant to the previous concluding observations of the Human Rights Committee, please describe steps taken to improve detention conditions, including through, inter alia, alleviating overcrowding and providing adequate health care (CCPR/C/NLD/CO/4, para. 23).

42. In light of the Committee's previous concluding observations (para. 11), please provide updated information on steps taken to:

- (a) Ensure that juveniles are completely separated from adult offenders;
- (b) Provide educational and training programmes to help the social reintegration of juveniles. Detailed information should be provided on the number of programmes offered and their content, as well as on the number of juvenile inmates participating in these programmes;
- (c) Implement a new classification of inmates and allocation of cells. In this respect, please elaborate on the status of the plan to build a new correctional facility in Curaçao;
- (d) Eliminate life imprisonment sentences for children.

**Article 16**

43. Please describe steps taken by the State party to prohibit corporal punishment by law and enforce the prohibition in all settings, including in the family, schools and out-of-home placements.

44. Please describe steps taken to criminalize trafficking in human beings as a separate offence, as recommended by the Human Rights Committee in its previous concluding observations (CCPR/C/NLD/CO/4, para. 22).

**General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention for the European part of the Kingdom, Aruba and the Netherlands Antilles**

45. Please provide detailed information on the relevant new developments in the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

46. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

47. Please provide any other information on new measures and developments undertaken to implement the Convention, and the Committee's recommendations, since the consideration of the previous periodic report in 2007, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.

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