



General Assembly

Distr.: General
12 March 2012

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Thirteenth session
Geneva, 21 May - 4 June 2012

**Summary prepared by the Office of the High Commissioner
for Human Rights in accordance with paragraph 5 of the
annex to Human Rights Council resolution 16/21**

Netherlands*

The present report is a summary of 16 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

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

I. Information provided by the accredited national human rights institution of the State under review in full compliance with the Paris Principles

N/A

II. Information provided by other accredited national human rights institutions and other stakeholders

A. Background and framework

1. Scope of international obligations²

1. NJCM (the Dutch Section of the International Commission of Jurists) welcomed that the Netherlands had ratified CED, OP-CAT and the OP-CRC-AC.³

2. NJCM recommended that the Netherlands be urged to ratify CRPD and the OP-ICESCR, and to sign and ratify OP-CRPD and ICRMW. Amnesty International and the Commissioner for Human Rights of the Council of Europe (CoE-Commissioner) made a similar recommendation.⁴

3. Joint Submission (JS) 2 and CoE-Commissioner recommended that the Netherlands withdraw its reservations with respect to CRC.⁵

2. Constitutional and legislative framework

4. NJCM noted with concern that the Netherlands does not consider provisions on economic, social and cultural rights in international human rights treaties to be directly applicable by courts. Echoing recommendations made by various international and regional human rights mechanisms, NJCM recommended that the Netherlands be urged to reassess its current position that provisions in United Nations human rights instruments related to economic, social and cultural rights are not directly applicable.⁶

5. Noting that the Netherlands' legislation and policy often are not in line with its international human rights obligations, NJCM recommended that the Netherlands be urged to systematically assess the impact of its policies and legislation on human rights.⁷

6. Institutional and human rights infrastructure and policy measures

7. In JS5, the Equal Treatment Commission, the National Ombudsman of the Netherlands and the Ombudsman for Children noted the adoption of the Act establishing the Netherlands Institute for Human Rights. The Equal Treatment Commission will be in charge of the preparations for the establishment of this institution, which is expected to become operational in 2012 and will merge with the Institute.⁸ Amnesty International (AI) regretted that this institution will lack litigation capacity vis-à-vis human rights violations and that most people living in the Caribbean parts of the Kingdom of the Netherlands will not have access to it.⁹

8. JS2 reported about the appointment of the first Ombudsman for Children by the Parliament in 2011.¹⁰

9. In JS5, the National Ombudsman of the Netherlands reported that the Netherlands planned to designate eleven inspectorates as the National Preventive Mechanism (NPM) for OP-CAT.¹¹ AI was concerned that even though the Inspectorate for Implementation of

Sanctions, which was given a coordinating role between existing monitoring bodies, operated relatively autonomously, it is still part of the Ministry of Security and Justice and therefore cannot be regarded as fully independent.¹² In JS5, the National Ombudsman of the Netherlands recommended that the Netherlands critically examine whether the currently envisaged NPM mechanism meets the requirements of OP-CAT and should broaden the scope of its considerations under OP-CAT beyond just criminal detention to all places where people are held against their will.¹³ AI recommended the establishment of a NPM in accordance with the provisions of OP-CAT.¹⁴

10. AI regretted that the Netherlands had shown no intention of developing a national action plan on human rights. AI expressed concern that human rights perspectives were rarely included in policy making as a result of ambiguous distribution of human rights competences between ministries and other parts of the Government.¹⁵ AI and CoE-Commissioner recommended that the Netherlands establish a national action plan for human rights.¹⁶ Furthermore, AI recommended that the Netherlands ensure the effective and regular consultation between civil society and the Government on current and structural human rights concerns.¹⁷

11. In JS5, the Equal Treatment Commission, the National Ombudsman of the Netherlands and the Ombudsman for Children noted that the Netherlands has no coherent training programme on human rights for civil servants and made a recommendation to correct this situation.¹⁸

12. Noting an extensive network of bilateral investment treaties (BIT), the Centre for Research on Multinational Corporations (SOMO) stated that the Netherlands should develop a framework that stimulates responsible investments by Dutch companies in third countries.¹⁹ SOMO recommended that the Netherlands include enforceable human rights clauses in BITs; critically assess and adapt the trade and investment promotion policies that support Dutch business abroad, including BITs and narrow the overly broad definitions of “investor” and “investment” currently used in BITs.²⁰

B. Institutional and human rights infrastructure and policy measures

Cooperation with treaty bodies

13. NJCM expressed concern at the lack of implementation of and the failure to widely disseminate the recommendations made in the concluding observations of the United Nations human rights treaty bodies. NJCM recommended that the Netherlands be urged to: address the implementation of and follow-up on previously received recommendations in its reports to UN human rights treaty bodies and ensure wide dissemination of concluding observations.²¹

14. AI noted that the Government frequently fails to provide consolidated reports pertaining to the various parts of the Kingdom, including all overseas territories, to the United Nations Treaty Bodies despite it accepted the recommendation on this matter put forward during the universal periodic review. AI recommended that the Netherlands provide single consolidated reports regarding all parts of the Kingdom of the Netherlands when reporting to the treaty bodies.²²

C. Implementation of international human rights obligations

1. Equality and non-discrimination

15. In JS5, the Equal Treatment Commission stated that the Netherlands had adopted a decentralized approach to counter discrimination and that municipalities had to create an

anti-discrimination desk where citizens can lodge complaints about discrimination. It recommended that the Netherlands monitor its decentralized approach to anti-discrimination and evaluate the effects it has on all groups vulnerable to discrimination.²³ AI noted that the Government, with its limited and merely facilitation role that was adopted to counter discrimination, failed to address concerns about discrimination by the authorities, such as ethnic profiling by police and discrimination in the juvenile justice system.²⁴ In JS5, the Equal Treatment Commission recommended that a coherent and broad plan of action tackling discrimination be put back on the political agenda.²⁵ AI made a similar recommendation.²⁶

16. AI stated that the General Equal Treatment Act (GETA), which guarantees non-discrimination, was not fully consistent with regional and international human rights standards.²⁷ CoE-Commissioner made a similar observation.²⁸

17. CoE-Commissioner welcomed the governmental policy document ‘More opportunities for women: Emancipation policy 2008-2011’ and commended the Government for regularly evaluating the implementation of each Ministry’s women’s equality policy. CoE-Commissioner considered this an example of good practice.²⁹

18. Landelijk Overleg Minderheden-samenwerkingsverbanden (LOM) stated that discrimination based on ethnic origin (racism, including racism against indigenous Dutch citizens) was reportedly the most common form of discrimination.³⁰

19. CoE-Commissioner reported that racism, xenophobia, intolerance against Muslims and anti-Semitism remained areas of concern.³¹ The Advisory Committee on the European Framework Convention for the Protection of national Minorities (CoE-ACFC) reported that persons belonging to the Roma and Sinti minorities are reported to experience prejudice and discriminatory attitudes in a number of fields, including housing and education. It also mentioned about the reported increase use of racial profiling within the police.³²

20. In JS5, the Equal Treatment Commission and the National Ombudsman of the Netherlands recommended that the Netherlands firmly and publicly reject discriminating policy proposals by public institutions and tackle Islamophobia by countering misrepresentation of facts by politicians.³³ In this regard, the Islamic Human Rights Commission (IHRC) mentioned the video produced by a Dutch parliamentarian and his statements which were described as inflammatory and an evident incitement to hatred. It stated that there are numerous examples where political and public figures, including mediai made discriminatory and discriminatory speech against Muslims and had not been punished.³⁴ LOM expressed similar concerns regarding radical statements affecting ethnic minorities.³⁵

21. CoE-Commissioner encouraged the Netherlands to raise awareness within the legal professions and police on the need to recognize aggravated circumstances specific to hate crimes and discrimination on all levels of prosecution and criminal procedures. The Commissioner was concerned about the lack of official statistics on common criminal offences with a discriminatory motive despite the legal obligation to register these offences.³⁶ Furthermore, CoE-ACFC found that very few cases of racially-motivated offences had been brought to courts.³⁷

22. LOM reported that the Government was working on a Bill that controls the admission and return of Dutch descendants from the Caribbean part of the Kingdom (Aruba, Curaçao, Sint Maarten). Since this Bill was not applicable to other Dutch descendants from outside the European part of the Netherlands, LOM believed that this constituted a direct form of discrimination based on race.³⁸

23. Despite the low number of complaints related to sexual orientation or gender identity received by anti-discrimination bodies, CoE-Commissioner observed a number of

worrying trends: social acceptance and safety of Lesbian, Gay, Bisexual and Transgender (LGBT) persons are under pressure and the number of LGBT persons being insulted, discriminated against or physically assaulted is reportedly growing.³⁹

24. JS1 recommended that the Netherlands include sexual orientation as an explicit ground for non-discrimination in the Constitution. JS1 further recommended that gender identity and gender expression are included as explicit grounds of discrimination in the Constitution and in GETA.⁴⁰ JS1 and CoE-Commissioner recommended that the Netherlands abolish the “sole fact construction” according to which religious schools may refuse and/or expel homosexual teachers and students.⁴¹

2. Right to life, liberty and security of the person

25. In JS5, the National Ombudsman of the Netherlands mentioned that the police seem to regard handcuffing and the use of police dogs as standard practices, while in fact they are allowed to apply them only if there are particular reasons to do so.⁴²

26. Noting the recommendation no. 78.6 put forward during the UPR and accepted by the Netherlands, AI referred to reported complaints of ill-treatment during expulsion of aliens from the Netherlands and highlighted the lack of transparency about investigations into such allegations.⁴³ In this respect, AI recommended that the Netherlands ensure that all allegations of ill-treatment and excessive use of force are independently, effectively and thoroughly investigated and that the outcome of the investigation is made public.⁴⁴

27. AI reported that high numbers of asylum-seekers and irregular migrants were detained solely for immigration purposes.⁴⁵ NJCM expressed concerns at the poor conditions in these detention centres, the unreasonably long or unknown duration of their stay and the use of isolation cells as a punitive measure.⁴⁶ AI and CoE-Commissioner expressed similar concerns.⁴⁷ NJCM recommended that the Netherlands be urged to significantly decrease the number of people in migrant detention by creating appropriate alternatives and to improve the conditions in detention centres.⁴⁸ AI and CoE-Commissioner made similar recommendations.⁴⁹

28. CoE-Commissioner stated that the persistence of violence against women, including domestic violence remained an area of concern, in particular against the most vulnerable groups, like migrant women. He encouraged the Government to continue to support services for victims of domestic violence to ensure that all victims of violence, including migrant women and children can access them effectively.⁵⁰

29. While noting efforts undertaken by the Netherlands, in JS5, the National Ombudsman of the Netherlands noted that the number of child abuse cases was not decreasing. It recommended that the Netherlands pay more attention to the prevention of child abuse, notably by effectively targeting risk groups.⁵¹

30. The Global initiative to End All Corporal Punishment of Children (GIEACPC) reported that, although the prohibition of corporal punishment in all settings had been achieved in the European part of the Kingdom of Netherlands, full prohibition of corporal punishment had not been achieved in Aruba and in Netherlands Antilles.⁵² GIEACPC expressed its hope that the Netherlands would be recommended to ensure that legislation be enacted as a matter of urgency to prohibit corporal punishment of children in all settings throughout the Kingdom.⁵³

31. Noting that there was no comprehensive strategy to combat child trafficking, NJCM recommended that the Netherlands be urged to improve its strategy to combat child trafficking and child pornography, by means of thorough investigation, education of professionals and the establishment of relief centres.⁵⁴ JS2 recommended that the

Netherlands ensure adequate care and relief services for children and young people who are victims of sexual exploitation and trafficking.⁵⁵

3. Administration of justice and the rule of law

32. In JS5, the National Ombudsman of the Netherlands mentioned the Government proposal to raise court fees significantly and considered it as a barrier to access to justice to everyone.⁵⁶

33. CoE-Commissioner noted that children aged 12 bear criminal responsibility. He recommended that the Netherlands increase the age of criminal responsibility and apply juvenile criminal law to all minors, even in serious offences.⁵⁷ In JS5, the Ombudsman for Children mentioned the Government's intention to adopt a criminal law for adolescents between 15 and 23 years, which will mean that juvenile criminal law, would no longer apply to 16- and 17-year-olds and maximum detention would increase from two to four years for them.⁵⁸

34. NJCM and JS2 stated that the policy concerning youth criminal law focuses on strong punishment of minors, including deprivation of liberty, and mentioned the high percentage of children deprived of liberty being in pre-trial detention. JS2 stated that there are no alternatives for deprivation of liberty for minors.⁵⁹ CoE-Commissioner noted with concern the stiffening of the penalties for juveniles over the last years.⁶⁰ JS2 recommended inter alia introducing mediation and restorative justice to youth criminal law.⁶¹ CoE-Commissioner urged the Government to ensure that all children in detention have access to the same quality of education as in the regular school system.⁶² LOM recommended that the Netherlands be requested to make every effort to prevent discrimination against young people belonging to ethnic minorities in the juvenile justice system.⁶³

4. Right to privacy, marriage and family life

35. JS2 stated that demand for youth care has increased dramatically in recent years. The Government has invested in signalling problems but not in effective prevention of behavioural or educational risks and easily accessible support for children and parents. Many children and kids wait longer for a proper treatment than acceptable waiting periods. The need for more serious and specialised forms of youth care is growing. JS2 added that the Netherlands was working on a decentralisation of the youth care system which means that the municipalities will become operationally and functionally responsible for all kinds of youth care services. At the same time, the Government was introducing 'efficiency reductions' of approximately 9 per cent to the funds available for the youth policies. As a result the central Government will transfer less to the municipalities while the municipalities will have to deal with the costs of a major reorganisation and cutbacks in regular education and special education for children with disabilities.⁶⁴

36. JS4 reported that many transgender persons had identity papers which did not match their lived gender as a result of the existing legal requirements for gender recognition.⁶⁵ JS1 recommended that the Netherlands abolish unnecessary conditions of sex reassignment including hormonal treatment, surgery and irreversible infertility prior to a change in gender registration.⁶⁶ Noting the proposed new draft law on gender recognition, JS4 reported about several shortcomings in the draft law, including a new requirement of an expert's affirmation for legal gender recognition.⁶⁷ JS4 recommended that the Netherlands improve the draft law on gender recognition and also ensure that health insurance covers all medical costs of transition.⁶⁸

5. Freedom of expression

37. CoE-Commissioner stated that racism, including hatred against Muslims topped the statistics of discrimination on the Internet together with complaints about anti-Semitism. Hate against Muslims is one of the two largest categories of online hate speech.⁶⁹

38. CoE-Commissioner was concerned that the debate on freedom of expression is influenced by fears of terrorism, as well as a fear of growing self-censorship in cultural and social life.⁷⁰

39. Bits of Freedom (BOF) mentioned several legislative proposals, including the 2011 new copyrights policy proposal, which could ultimately lead to the restriction of access to information or even the monitoring and blocking of internet traffic. For example, the Government had launched draft legislation in 2010 which would give public prosecutors' office the authority to block access to information on the internet without judicial supervision.⁷¹

6. Right to work and to just and favourable conditions of work

40. In JS5, the Equal Treatment Commission stated that the Netherlands had not implemented measures to address discrimination in the labour market. It recommended that the Government publicly and repeatedly voice its concern and disapproval regarding race discrimination in the labour market, make employers aware of their non-neutral selection behavior and address their responsibility to select in an ethnically neutral manner.⁷² JS1 and JS4 also referred to discrimination against transgender people in the labour market.⁷³

41. NJCM reported on the persistence of horizontal and vertical segregation in the labour market and on the concentration of women in the lower-paid service sectors. Furthermore, the unemployment rate for women was considerably higher than for men and a substantial pay gap still existed in all sectors.⁷⁴ NJCM recommended that the Netherlands ensure that women enjoy equal access to the labour market and equal pay for work of equal value. The Government should also encourage mothers of young children to continue their employment by increasing the options available for full-time and part-time child care benefits and appropriate after-school program.⁷⁵ In JS5, the Equal Treatment Commission, while referring to its 2011 survey indicating that women were less paid than men in general hospitals, recommended that Governmental entities, in their capacity of employers, be audited for meeting all legal equal pay standards.⁷⁶

42. The European Committee of Social Rights (CoE-ECSR) concluded that there is no provision in legislation for reduced working hours, additional paid holidays or another form of compensation in dangerous and unhealthy occupations.⁷⁷ In JS5, the Equal Treatment Commission also referred to documented poor working conditions of migrant workers from Central and Eastern Europe.⁷⁸

7. Right to social security and to an adequate standard of living

43. JS2 reported that poverty had risen, particularly affecting children, and that more families belonged to the group of the 'working poor'. JS2 recommended that Netherlands protect children from poverty and social exclusion caused by the financial crisis and cuts in governmental grants.⁷⁹

8. Right to health

44. JS4 stated that contraceptives were no longer reimbursed by the basic insurance for people over the age of 21 years since January 2011. It stated that girls belonging to some ethnic groups, young asylum seekers and girls with lower education are more at risk of teenage pregnancies. JS4 stated that a more integrated sexual reproductive health approach

in cooperation with the health care workers, public health centres and ethnic minorities can contribute to the prevention of teenage and unplanned pregnancies.⁸⁰

45. LOM reported that women from ethnic minority groups, especially in poor neighbourhoods, frequently experience adverse pregnancy outcomes, such as premature births, lower birth weight, or even perinatal mortality.⁸¹

46. JS1 reported that the situation regarding health care for transgender people was troublesome. A waiting period of one year for access to transgender specific healthcare at the Amsterdam gender dysphoria care team is not exceptional. For transgender people that choose to undergo medical treatment, several medically necessary options are not available. Dutch treatment of transgender people is still based on a pathologising view on transgender. It recommended paying more attention to the health needs of transgender people and the depathologization of transgender identities.⁸²

9. Right to education

47. NJCM reported that, despite recommendations made by CRC and CERD to combat ethnic segregation in schools, the Government recently declared that it no longer considered combating ethnic segregation in schools a priority issue.⁸³ LOM referred to ethnic segregation in schools in –mixed’ cities and stated that pupils from ethnic minority groups were disproportionately referred to special education, partly because of behavioral and psychological problems. LOM considered that the discriminatory mechanism which lead to ethnic segregation in education have to be contested.⁸⁴ CoE-ACFC encouraged the Government to take further awareness-raising measures to highlight the role of schools in promoting mutual respect and understanding. They should make ethnically mixed classes attractive to parents, including by ensuring a constant quality to the education provided in these schools.⁸⁵

48. NJCM and JS2 indicated that recent budget cuts in public expenditures will severely affect schools for children with special needs (such as handicapped and chronically ill children).⁸⁶

49. NJCM reported that the Netherlands has not introduced human rights education into regular school programs and has no National Action Plan on Human Rights Education. AI, JS2 and JS5 made a similar observation.⁸⁷ AI recommended that the Netherlands fulfil its obligation to provide human rights education to all pupils.⁸⁸

50. JS4 indicated that the Government agreed to include education on sexuality and sexual diversity in primary and secondary school in November 2011.⁸⁹ JS1 recommended that the Netherlands include education on LGBT persons in schools.⁹⁰

10. Persons with disabilities

51. JS3 referred to reported incidents where people with disabilities indicated that they were subjected to inhuman or degrading treatment in residential care institutions. Death of patients, serious neglect and degrading treatment occurred regularly.⁹¹

52. JS3 stated that a considerable number of children with disabilities live in institutions. As for persons with mental disabilities, JS3 reported about the lack of formal policies endorsing independent living and about the assumption in financial regulations that care facilities were to be shared through forced group living. JS3 added that, as a result, persons with mental disabilities could not live independently and have limited participation in their communities.⁹²

53. JS3 reported that full accessibility of persons with disabilities to public transport will not be reached soon.⁹³ CoE-Commissioner urged that full access to all forms of public transport is guaranteed without applying financial impediments for persons with disabilities

and that the anti-discrimination legislation is extended to all forms of education, goods and services, public transport and social protection.⁹⁴

54. JS4 further recommended that the Netherlands ensure that professionals working with people with a disability have adequate knowledge and skills to signal sexual abuse, and to support and treat victims of sexual abuse.⁹⁵ JS3 noted that special schools were no longer allowed to refuse pupils with intellectual disabilities on the ground of not being educable or being below a certain developmental level. JS3 referred to reports indicating that a number of children with severe disabilities were exempted from compulsory education and received care in daycare centers, and reported that not many children with intellectual disabilities attended mainstream schools.⁹⁶

11. Minorities and indigenous peoples

55. CoE-Commissioner stated that the Framework Convention for the Protection of National Minorities does not apply to the Roma and Sinti since the Netherlands does not recognize them as a national minority. CoE-Commissioner urged the Government to give recognition to the Roma and Sinti as a minority under the Convention.⁹⁷ CoE-ACFC made a similar observation.⁹⁸ Furthermore, CoE-Commissioner indicated receiving worrying though fragmented reports about the situation of Roma and Sinti, including information about problems with housing, high unemployment rates, health, school drop-out, discrimination on the labour market, problems with delivery of goods and services, and a negative image among the police and justice system.⁹⁹ CoE-ACFC found that there was no comprehensive policy that would address the multiple causes of Roma and Sinti marginalisation in a number of fields and it considered that the authorities should elaborate such a policy in consultation with the Roma and Sinti organisations.¹⁰⁰

56. CoE-ACFC stated that measures have been taken to facilitate the use of Frisian in relations with the administration and the judiciary, teaching of Frisian is available in primary and secondary schools and instruction in Frisian is slightly increasing. Further efforts are however needed in terms of teacher training, supervision of Frisian teaching and the amount of teaching in Frisian needs to be further discussed with Frisian representatives in order to adequately meet their demands.¹⁰¹

12. Migrants, refugees and asylum-seekers

57. NJCM recommended that the Netherlands be urged to revoke measures that put aliens at risk of marginalization, in particular criminalisation of illegal entry and stay and to use international human rights standards as a guideline for new immigration policy. AI also recommended that the Netherlands refrain from criminalisation of irregular entry or stay.¹⁰²

58. NJCM reported that various categories of aliens were forced to live under precarious conditions and have no right to social benefits such as health insurance. NJCM further noted that, although undocumented migrants have the formal right to access to basic health care, measures such as mandatory identification made claiming this right virtually impossible for them.¹⁰³ In JS5, the Equal Treatment Commission and the National Ombudsman of the Netherlands stated that the position of immigrants and migrant workers merited special attention.¹⁰⁴

59. NJCM stated that the migration authorities do not take into consideration the best interests of children and thus, migrant families with children are strongly affected by the enforcement of the return policy.¹⁰⁵ In JS5, the Ombudsman for Children recommended that the Dutch Immigration Service consider the interests of the child, when an asylum request of the parents is under consideration. The level of a child's integration in society and the presence of (psychological) damage should be criteria that are used to judge the asylum request.¹⁰⁶ Furthermore, JS2 recommended that the Netherlands ensure that families with

children, while their asylum applications are being processed, always have access to child friendly shelters.¹⁰⁷

60. NJCM mentioned that legislation required from aliens to take an integration exam abroad, the level of which has recently been raised and noted the specific problems it raised for illiterate persons and individuals with particular health problems. NJCM stated that such requirement caused families to be separated for long periods of time.¹⁰⁸ Similarly, LOM and CoE Commissioner referred to several barriers hindering the family reunification.¹⁰⁹ CoE-Commissioner recommended that the Netherlands review current entry conditions for family reunification and formation to ensure that tests, fees and age requirements do not amount to a disproportionate obstacle.¹¹⁰

61. While referring to the increasing number of non-Dutch nationals permanently residing in the Netherlands over years, LOM concluded that the requirements imposed by the Government to grant citizenship, such as high fees and the naturalisation test/integration requirement had become an impregnable barrier for a large group of people.¹¹¹

62. Referring to recommendation put forward during the UPR to review the asylum determination procedure, AI noted the amendments to the Aliens Act that provided for a new general eight-day processing procedure for asylum claims, with the possible extension to 14 days. AI was concerned that the new procedure might not allow asylum-seekers to adequately substantiate their claims within the limited time allowed, thereby increasing the risk of their forcible return in violation of the principle of *non-refoulement*.¹¹²

63. JS1 referred to the situation of LGBTI asylum seekers and notably recommended that the Netherlands follow its own policy rules and abolish “discretion requirement” arguments.¹¹³

13. Human rights and counter-terrorism

64. In JS5, the Dutch Data Protection Authority stated that the new legislation and measures adopted in response to terrorist attacks have their effect on the protection of the private lives and personal data of all citizens and residents.¹¹⁴ Similarly, BOF and Privacy First Foundation (SPF) considered several measures introduced in the name of anti-terrorism violation of the right to privacy protected by the international and regional human rights instruments.¹¹⁵ BOF and SPF recalled the recommendation, which was accepted by the Netherlands made during the UPR to revise all-anti-terrorism legislation to bring it in line with the human rights standards.¹¹⁶

65. In this respect, in JS5, the Dutch Data Protection Authority stated that citizens are obliged to submit a large number of personal details to the Government. The Government also gathers data from private parties and links all such data without informing citizens. It stated that personal data are stored in many databases and it has not been clear who has access to which databases and for what purposes. There are also not clearly defined retention periods. The large scale data collection and the use of profiles cause risks of infringements of the right to privacy. NJCM made similar observations and informed about planned additional measures of the Government in this respect.¹¹⁷ SPF stated that digital profiles can be extremely detailed and that profiling can easily lead to discrimination and ‘steering’ of persons in pre-determined directions, depending on the ‘categories’ their profiles ‘fit into’ and without the persons in question being aware of this.¹¹⁸ SPF provided further details on other similar measures and demonstrated their implication on the rights to privacy.¹¹⁹ So did Burgerrechtenvereniging Vrijbit (Vrijbit) and Stichting Meldpunt Misbruik Identificatieplicht (Meldpunt ID-nee) with regard to a number of these measures.¹²⁰

66. Furthermore, BOF and NJCM reported that the Netherlands lacked an overarching privacy framework for the evaluation of its legislation and policies.¹²¹ In JS5, the Dutch

Data Protection Authority recommended that the Netherlands conduct an analysis on the impact on privacy prior to plan large-scale data processing systems.¹²² BOF and NJCM also recommended that all privacy restricting policies should be periodically reviewed and evaluated after their implementation.¹²³ Meldpunt ID-nee made similar recommendations.¹²⁴ BOF recommended that the Netherlands be urged to develop a set of criteria for all policies restricting the right to privacy. The set of criteria would have to ensure that each potential privacy restriction is necessary in a democratic society and proportionate towards a legitimate aim.¹²⁵ In JS5, the National Ombudsman of the Netherlands further recommended that the Netherlands guarantee its citizens the right to consult and correct the registration of their personal data in Government systems.¹²⁶

67. In JS5, the Dutch Data Protection Authority recommended that the Netherlands continually assess the implications of counter-terrorism measures and practice on human rights and decide on the continuation of the applicable legislation.¹²⁷ Similarly, CoE-Commissioner recommended that the Netherlands review the anti-terrorism measures to ensure that they fully comply with international human rights standards and ensure that anti-terrorism measures, such as telephone tapping and disturbance of an individual, are subject to full judicial oversight and offer effective procedural safeguards to suspects.¹²⁸

14. Situation in or in relation to specific regions or territories

68. LOM reported that, since 10 October 2010 new constitutional arrangements existed in the Kingdom of the Netherlands and that the Netherlands was responsible for guaranteeing the human rights situation in the Caribbean part of the Kingdom. LOM recommended that the Netherlands be urged to prioritise the situation of children on the islands of Bonaire, Saint Eustatius and Saba, and to actively cooperate with the countries, i.e. Aruba, Curaçao and Saint Maarten, to improve the overall human rights situation.¹²⁹

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

AI	Amnesty International, London, United Kingdom of Great Britain and Northern Ireland;
BOF	Bits of Freedom, Amsterdam, The Netherlands ;
GIEACPC	Global initiative to End All Corporal Punishment of Children, London, United Kingdom of Great Britain and Northern Ireland;
IHRC	Islamic Human Rights Commission, Wembley, United Kingdom of Great Britain and Northern Ireland;
JS1	Joint Submission 1 by COC Netherlands, Transgender Network Netherlands and ILGA-Europe; The Netherlands/Belgium;
JS2	Joint Submission 2 by Defence for Children and ECPAT Netherlands, Leiden, The Netherlands;
JS3	Joint submission 3 by Perspectief Foundation and National Democratic Association Inclusion Netherlands; The Netherlands;
JS4	Joint submission 4 by Rutgers WPF and the Sexual Rights Initiative, The Netherlands;
LOM	Landelijk Overleg Minderheden-samenwerkingsverbanden, on behalf of Moluccan Consultative Body (BUAT), Chinese Consultative Body (IOC), Turkish Consultative Body (IOT), Southern European Consultative Body (LIZE), Caribbean Dutch Consultative Body (OCaN), Surinamese Consultative Body (SIO), Moroccan Dutch Consultative Body (SMN), Utrecht, The Netherlands, (joint submission);

Meldpunt ID-nee	Stichting Meldpunt Misbruik Identificatieplicht, Utrecht, The Netherlands;
NJCM	International Commission of Jurists - Dutch Section on behalf of Aletta - Institute for Women's History ; ASKV/Steunpunt Vluchtelingen (Support Organisation for Refugees) ; Bits of Freedom ; Caribbean Dutch Consultative Body (OCaN) ; Defence for Children – the Netherlands ; Doctors of the World – the Netherlands ; Dutch Coalition on Disability and Development (DCDD) ; Dutch Refugee Council ; Dutch Section of the International Commission of Jurists (NJCM) ; ECPAT – the Netherlands ; E-Quality – Information Centre for Gender, Family and Diversity Issues ; FIAN Netherlands - FoodFirst Information and Action Network ; Johannes Wier Foundation for Health and Human Rights ; Justitia et Pax – the Netherlands ; LOS Foundation (National Support Organisation for Undocumented Migrants) ; Moluccan Consultative Body (BUAT) ; Moroccan Dutch Consultative Body (SMN) ; MOVISIE ; Netherlands Platform on Human Rights Education ; Platform Bescherming Burgerrechten (Platform for the Protection of Civil Rights) ; Southern European Consultative Body (Lize) ; Surinamese Consultative Body (SIO) ; TIYE International ; Turkish Consultative Body (IOT); YWCA – the Netherlands ; The Netherlands, (joint submission);
SOMO	Centre for Research on Multinational Corporations; Amsterdam, The Netherlands;
SPF	Privacy First Foundation (Stichting Privacy First, SPF); Amsterdam, The Netherlands;
VRIJBIT	Burgerrechtenvereniging Vrijbit, Utrecht, The Netherlands ;
<i>National Human Rights Institution</i>	
JS5	Joint Submission 5 by The Equal Treatment Commission (CGB) together with The National Ombudsman of the Netherlands, The Ombudsman for Children and, The Dutch Data Protection Authority; Utrecht, The Netherlands;
<i>Regional intergovernmental organization</i>	
CoE	Council of Europe, France, Strasbourg
CoE-Commissioner:	Report by the Council of Europe Commissioner for Human Rights, on his visit to the Netherlands, 21–25 September 2008, CommDH(2009)2, 11 March 2009;
CoE-ECSR:	European Committee of Social Rights, Conclusions XIX-3(2010) (Netherlands), Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29 of the Revised Charter, December 2010;
CoE-ACFC:	Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on the Netherlands, adopted on 25 June 2009, ACFC/OP/I(2009)002, 17 February 2010.
² The following abbreviations have been used for this document:	
OP-ICESCR	Optional Protocol to ICESCR
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CED	International Convention for the Protection of All Persons from Enforced Disappearance

- ³ NJCM, p. 3; see also JS2, p. 4.
⁴ NJCM, p. 4 ; AI, p. 5; CoE-Commissioner, paras. 9 and 138, see also JS5, para. 45.
⁵ JS2, p. 4 ; see also JS5, para. 39; CoE-Commissioner, paras. 9 and 98.
⁶ NJCM, p. 4; see also CoE-Commissioner, paras. 12-14.
⁷ NJCM, p. 5.
⁸ JS5, para. 4; see also JS2, p. 4.
⁹ AI, p. 3.
¹⁰ JS2, p. 4.
¹¹ JS5, para. 46.
¹² AI, p. 2.
¹³ JS5, para. 46.
¹⁴ AI, p. 5.
¹⁵ AI, p. 2 ; see also CoE-Commissioner, paras. 34-36.
¹⁶ AI, p. 5; CoE-Commissioner, p. 41.
¹⁷ AI, p. 5.
¹⁸ JS5, para. 44.
¹⁹ SOMO, paras. 5-6.
²⁰ SOMO, paras. 12-16.
²¹ NJCM, pp. 4-5.
²² AI, p. 2 and 5.
²³ JS5, para. 30..
²⁴ AI, p. 4.
²⁵ JS5, para. 30.
²⁶ AI, p. 6.
²⁷ AI, p. 4.
²⁸ CoE-Commissioner, paras. 125-126.
²⁹ CoE-Commissioner, para. 133.
³⁰ LOM, p. 3.
³¹ CoE-Commissioner, para. 154.
³² CoE-ACFC, paras. 47, 47, 49, 53-54 and 101.
³³ JS5, p. 3 ; see also ACFC, paras. 37-38.
³⁴ IHRC, pp. 2-3.
³⁵ LOM, p. 3.
³⁶ CoE-Commissioner, paras. 131-132.
³⁷ CoE-ACFC, paras. 42-45 and 98.
³⁸ LOM, p. 6.
³⁹ CoE-Commissioner, para. 142.
⁴⁰ JS1, p. 3.
⁴¹ JS1, pp. 1-2 ; CoE-Commissioner, paras. 127-128 and p. 42.
⁴² JS5, para. 18.
⁴³ AI, p. 1.
⁴⁴ AI, pp. 5-6.
⁴⁵ AI, p. 3 ; see also NJCM, p. 7.
⁴⁶ NJCM, p. 7.
⁴⁷ AI, p. 4; CoE-Commissioner, paras. 53-60.
⁴⁸ NJCM, p. 8..
⁴⁹ AI, p. 6, CoE-Commissioner, para. 63.
⁵⁰ CoE Commissioner, para. 135, see also JS4, para. 6.
⁵¹ JS5, para. 41.
⁵² GIEACPC, p. 2; see also CoE-Commissioner, para. 100.
⁵³ GIEACPC, p. 1; see also CoE-Commissioner, p. 42.
⁵⁴ NJCM, p. 10.
⁵⁵ JS2, p. 8.
⁵⁶ JS5, para. 16.
⁵⁷ CoE-Commissioner, para. 110 and p. 42.
⁵⁸ JS5, para. 39.

- ⁵⁹ JS2, p. 4. ; NJCM, p. 10
⁶⁰ CoE, para. 115.
⁶¹ JS2, p. 5.
⁶² CoE, para. 120.
⁶³ LOM, p. 5.
⁶⁴ JS2, p. 5.
⁶⁵ JS4, para. 16.
⁶⁶ JS1, p. 3; see also CoE-Commissioner, para. 145.
⁶⁷ JS4, para. 17, see also JS1, p. 3.
⁶⁸ JS4, paras. 23 (k) and 23(l).
⁶⁹ CoE-Commissioner, para. 155.
⁷⁰ CoE, para. 163.
⁷¹ BOF, paras 16-22.
⁷² JS5, paras. 32-33; see also LOM, p. 4.
⁷³ JS1, p. 4-5; JS4 ,para. 15.
⁷⁴ NJCM, p. 5-6; see also CoE-Commissioner, para. 134.
⁷⁵ NJCM, p. 6.
⁷⁶ JS5, paras. 36-37.
⁷⁷ CoE-ECSR, p. 6 and 10.
⁷⁸ JS5, para. 34.
⁷⁹ JS2, pp. 5-6.
⁸⁰ JS4, paras. 9-10.
⁸¹ LOM, para. 5.
⁸² JS1, p. 4.
⁸³ NJCM, p. 9; see also JS2, p. 3 and CoE-ACFC, paras. 54-55.
⁸⁴ LOM, p. 4.
⁸⁵ CoE-ACFC, para. 57.
⁸⁶ NJCM, p. 9; JS2, p. 6.
⁸⁷ NJCM, p. 9, AI, p. 3 ; JS2, p. 3; JS5, paras. 42-43.
⁸⁸ AI, p. 5.
⁸⁹ JS4, para. 8.
⁹⁰ JS1, p. 2.
⁹¹ JS3, pp. 2-3.
⁹² JS3, pp. 5-8.
⁹³ JS3, p. 9.
⁹⁴ CoE-Commissioner, para. 139.
⁹⁵ JS4, para23.
⁹⁶ JS3, pp. 9-11.
⁹⁷ CoE-Commissioner, para. 151.
⁹⁸ CoE-ACFC, paras. 21-22.
⁹⁹ CoE-Commissioner, para. 152.
¹⁰⁰ CoE-ACFC, paras. 46-51 and 99.
¹⁰¹ CoE-ACFC, para. 114.
¹⁰² NJCM, p. 8; AI, p. 6.
¹⁰³ NJCM, p. 7.
¹⁰⁴ JS5, para. 9.
¹⁰⁵ NJCM, pp. 9-10.
¹⁰⁶ JS5, para. 40; see also JS2, p. 6.
¹⁰⁷ JS2, p. 7.
¹⁰⁸ NJCM, p. 8; see also CoE-Commissioner, paras. 77-78.
¹⁰⁹ LOM, p. 5, CoE-Commissioner, paras. 77-86.
¹¹⁰ CoE Commissioner, Section XXII, para. 15.
¹¹¹ LOM, p. 5.
¹¹² AI, p. 1.
¹¹³ JS1, p. 5.
¹¹⁴ JS5, p. 23.

- ¹¹⁵ SPF, p. 2, BOF, para. 13.
¹¹⁶ BOF, para. 12 ; SPF, p. 2.
¹¹⁷ JS5, paras. 25 and 27 and NJCM, p. 7, see also BOF, paras. 12-15.
¹¹⁸ SPF, p. 8.
¹¹⁹ SPF, p. 2-7.
¹²⁰ VRIJBIT, p. 1-2 ; Meldpunkt ID-nee, p. 1-2; see also BOF, paras. 12-15.
¹²¹ BOF, para. 8 ; NJCM, p. 6.
¹²² JS5, paras. 26-28; see also NJCM, p. 7.
¹²³ BOF, para. 11, NJCM, p. 7.
¹²⁴ Meldpunkt ID-nee, p. 3.
¹²⁵ BOF, para. 11.
¹²⁶ JS5, para. 29.
¹²⁷ JS5, p. 6; see also NJCM, p. 7.
¹²⁸ CoE-Commissioner, Section XII, para. 36.
¹²⁹ LOM, p. 6.
-