



REFERENCE: AA/follow-up/Netherlands /58

10 September 2014

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the fifth periodic report of the Kingdom of the Netherlands at the Committee's forty-fifth session, held in January-February 2010. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/NLD/CO/5). You may recall that in the concluding observations, the Committee requested the Netherlands to provide, within two years, further information regarding the specific areas of concern identified by the Committee in paragraphs 27 and 29 of the concluding observations.

The Committee welcomes the follow-up report received in September 2013 (CEDAW/C/NLD/CO/5/Add.1) and the additional information (CEDAW/C/NLD/CO/5/Add.2) submitted by the Kingdom of the Netherlands in October 2013, although it was received with a two-month delay, under the CEDAW follow-up procedure. At its fifty-eighth session, held in February 2014 in Geneva, the Committee examined the additional information and adopted the following assessment.

Regarding the recommendation made in **paragraph 27** of the concluding observations that the State party “provide additional information on actions taken to enact the Temporary Domestic Exclusion Order Act in Bonaire, St Eustatius and Saba”: The State party indicated that the Temporary Domestic Exclusion Act is not yet in force on Bonaire, St Eustatius or Saba but that victims of domestic violence do have the option of applying to the civil courts for a restraining order prohibiting the perpetrator from seeking contact with them. The State party added that Bonaire, St Eustatius and Saba intend to implement temporary domestic exclusion legislation as part of implementing the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The Committee considers that the State party failed to take actions to enact the Temporary Domestic Exclusion Order Act in Bonaire, St Eustatius and Saba. It considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “provide additional information on actions taken to enact the Country Ordinance on Temporary Domestic Exclusion Orders in Aruba”: The State party indicated that a new Criminal Code for Aruba was approved by Parliament on 18 April 2012 and adopted by the Government of Aruba on 27 April 2012. It also explained that the

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new Criminal Code empowers the Court to impose a barring order on a perpetrator. The State party indicated that the new Criminal Code for Aruba introduced a provision on barring orders which the Court may impose on a perpetrator. The Committee considers that the recommendation **has been implemented**.

Regarding the recommendation that the State party “provide additional information on actions taken to provide specific training focused on domestic violence for the police, law enforcement and health personnel, so that they may properly investigate and deal with domestic violence”: The State party indicated that, starting in 2012, specific attention was being devoted to domestic violence in the academy’s modules “crime” and “public order and social care”. The State party indicated that a committee was preparing a series of training sessions, expected to start in the beginning of 2014, on domestic violence, for the various professions that encounter domestic violence or have to deal with its consequences in their work, including the police and other law enforcement officers, health personnel and social workers. The Committee considers that the recommendation **has been implemented**.

Regarding the recommendation that the State party “provide additional information on actions taken to draw up and launch without delay the new plan of action against domestic violence and ensure that the specificities of domestic violence targeting women be fully taken into consideration in the plan”: The State party indicated that, in July 2012, the Government set forth a government-wide approach, which embraces the entire chain of prevention, signalling, halting and aftercare with regard to all forms of domestic abuse, such as child abuse, intimate partner violence, sexual violence, abuse of the elderly, female genital mutilation, honour-related violence and forced marriage. The approach focuses on strengthening the role of municipal authorities. Given its wide ranging development of the decentralisation of tasks, the State party also indicated that it considers that drawing up a new action plan is at odds with the vigorous efforts currently being made to elaborate the government-wide approach. The State party further indicated that the Government will be commissioning a “gender scan” later this year to measure the gender-sensitivity of the relevant policy and its implementation. The Committee considers that the State party took some steps towards ensuring that the relevant policy development and implementation in the framework of the government-wide approach to domestic violence is gender sensitive. However, the Committee notes that the Government’s approach does not seem to be equivalent to the drawing up of a new action plan. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party “provide additional information on actions taken to ensure that victims of domestic violence can benefit from free legal aid”: The State party indicated that the level of legal aid provided depends on the applicant’s income. It added that, if the sexual or other violence suffered by a victim of domestic violence has resulted in severe physical and/or psychological injuries, the victim is eligible for free legal assistance, regardless of financial capacity, under the terms of the Criminal Injuries Compensation Fund Act. The Committee considers that the State party failed to take actions to ensure that all victims of domestic violence can benefit from free legal aid. It considers that the recommendation has **not been implemented**.

Regarding the recommendation that the State party “provide information on the outcome of the evaluation of the Shared Parenting and Responsible Divorce and Separation Act of 2008, scheduled to be undertaken in 2012; on the number of women victims of domestic violence who benefited from the get-out-clause of the Act; and on the conditions requested, in the case law, for its application”: The State party indicated that the Research and Documentation Centre (WODC) launched the evaluation of the Shared Parenting and Responsible Divorce and Separation Act in March 2013. It further indicated that the report is expected to appear in September 2013. The Committee considers that the State party has not explained whether the evaluation of the Shared Parenting and Responsible Divorce and Separation Act will provide data and information on women victims of domestic violence who benefited from the get-out-clause of the Act and the

criteria (conditions) applied in the case law for granting the get-out-clause. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

The Committee recommends that, in relation to paragraph 27 of the concluding observations, the State party provide, **in its next periodic report**, additional information on actions taken to:

- 1) Enact the Temporary Domestic Exclusion Order Act in Bonaire, St Eustatius and Sab;
- 2) Launch the new plan of action against domestic violence;
- 3) Ensure that all victims of domestic violence can benefit from free legal aid; and
- 4) Provide information on the outcome of the Shared Parenting and Responsible Divorce and Separation Act of 2008, scheduled to be undertaken in 2012; on the number of women victim of domestic violence who benefited from the get-out-clause of the Act; and on the conditions requested, in the case law, for its application.

Regarding the recommendation made in **paragraph 29** of the concluding observations that the State party “provide additional information on actions taken to adopt the draft Criminal Code in St Maarten and ensure that it criminalizes all forms of human trafficking”: The State party indicated that, in May 2012, the Parliament of St Maarten approved the new Criminal Code, which is expected to be in place by 2013. It first has to pass the “constitutional test”. The State party added that once the Criminal Code has been adopted, St Maarten will have a legal instrument that meets international requirements regarding the criminalisation of every aspect of human trafficking. It further indicated that, as a young country (established on 10 October 2010), St Maarten is in the process of developing essential instruments to combat human trafficking through legislation and measures to strengthen the judicial system. The Committee considers that the State party failed to provide clear explanation on whether the new Criminal Code criminalizes all forms of human trafficking. The Committee **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party “provide additional information on actions taken to integrate additional relevant NGOs in the anti-trafficking task force”: The State party indicated that the task force is in contact with NGOs working in the field of victim support, and any information received from them can be passed on. It added that this applies all the more since the recent introduction of a new consultative structure, namely the Human Trafficking Strategic Consultative Group. It indicated that this group consists of representatives of CoMensha, FairWork, PMW/COSM (a Rotterdam-based organisation assisting sex workers in general, including victims of human trafficking), ACM/COSM (Amsterdam Coordination Centre for Specialist Care for Victims of Human Trafficking), Jade COSM (Jade Specialist Care for Victims of Human Trafficking), SHOP (Foundation for Care and Shelter of Sex Workers and Victims of Human Trafficking in The Hague), Fier Fryslan and MJD Groningen (Social and Legal Services). The Committee is not clear on whether the consultative body has any possibility to impact on decisions of the anti-trafficking task force. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party “provide additional information on actions taken to systematically associate relevant NGOs with the identification of victims of trafficking, including by authorizing the NGOs to apply for the reflection period on behalf of the victim and by extending the NGOs’ access to detention centres”: The State party indicated that victims can request the assistance of an NGO. The State party added that a project set up by the NGO Fairwork has raised the awareness of the personnel of the Custodial Institutions Agency and the Repatriation and Departure Service that victims of human trafficking may be present in detention centres. The Committee considers that the State party failed to provide clear explanation on actions taken to systematically associate relevant NGOs with the identification of victims of

trafficking and failed to provide information on actions taken to authorize the NGOs to apply for the reflection period on behalf of the victim and to extend the NGOs' access to detention centres. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party "provide additional information on actions taken to ensure the effective enforcement of the new rule in force since 1 January 2011 according to which victims of trafficking who are not able or willing to cooperate with the authorities may be entitled to a residence permit at certain conditions; and extend its application by ensuring that the granting of protection unconditionally and effectively applies to all victims of trafficking regardless of their willingness or ability to cooperate in legal proceedings": The State party indicated that, since 2011, it has been possible for a victim of trafficking to be issued with a residence permit if he or she is unable or unwilling to cooperate with the authorities on account of serious threats from the trafficker or physical/mental disabilities. The Committee considers that the State party failed to provide information on the effective enforcement of the new rule in force since 1 January 2011 according to which victims of trafficking who are not able or willing to cooperate with the authorities may be entitled to a residence permit at certain conditions. However, the Committee considers that the State party took some steps by rendering possible for a victim of trafficking to be issued with a residence permit if he or she is unable or unwilling to cooperate with the authorities on account of serious threats from the trafficker or physical/mental disabilities. It therefore considers that the recommendation has been **partially implemented**.

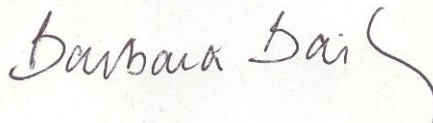
The Committee recommends that, in relation to paragraph 29 of the concluding observations, the State party provide, **in its next periodic report**, additional information on actions taken to:

- 1) Ensure that the draft Criminal Code in St Maarten enters into force and provide information on the forms of human trafficking covered by the new Criminal Code;
- 2) Integrate additional relevant NGOs in the anti-trafficking task force;
- 3) Systematically associate relevant NGOs with the identification of victims of trafficking, including by authorizing the NGOs to apply for the reflection period on behalf of the victim and by extending the NGOs' access to detention centres; and
- 4) Ensure the effective enforcement of the new rule in force since 1 January 2011 according to which victims of trafficking who are not able or willing to cooperate with the authorities may be entitled to a residence permit at certain conditions.

The Committee looks forward to pursuing its constructive dialogue with the authorities of the Kingdom of the Netherlands on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



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