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Mr. Jaime Marchan Romero
Chairperson Committee on Economic, Social and Cultural Rights c/o OHCHR
Human Rights Treaties Division Palais Wilson,
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Onze referentie

IZ/IA/2010/24379

Datum 6 december 2010
Betreft Reaction to the Concluding Observations of the Committee on Economic,
Social and Cultural Rights

Dear mr. Marchan Romero,

With interest I have read the concluding observations the Committee on Economic, Social and Cultural Rights has adopted concerning the combined fourth and fifth report of the Kingdom of the Netherlands on the implementation of the International Covenant on Economic, Social and Cultural Rights and the meetings held on 10 and 11 November 2010 in Geneva.

Early next year the Dutch Minister of Social Affairs and Employment will send to the Parliament the concluding observations and the reaction of the Dutch government on the content of the principal subjects of concerns and recommendations of the Committee as well. I will send you a copy of this reaction.

At this stage I would like to express my deepest concerns about the way the Committee has concluded that 1) the Dutch state pension system is discriminatory to migrants working in the Netherlands and 2) Dutch pensioners are at risk of poverty.

During the meetings held on 10 and 11 November 2010 in Geneva my delegation has explained the characteristics of the Dutch state pension system. After having read the draft concluding observations, my delegation has informed the secretariat of the Committee that the recommendation and concerns of the Committee with regard to the two subjects mentioned above are based on a misunderstanding of the facts. I am surprised that this information has not given rise to adjustment of the concluding observations by the Committee.

As the Committee presents no reasoning nor factual information which might be the basis for the concerns of the Committee I would like to correct any kind of possible misunderstanding by describing the way our state pension system works. I trust, this will eliminate the concerns the Committee has expressed.

Income guarantees for persons of retirement age

The state pension is an important part of the system of income benefits available to persons of retirement age (65 years) and over. Together with the social assistance system, state pensions guarantee that each person residing in the Netherlands has access to an income during the years of retirement. The level of a full state pension is equal to the social assistance level for persons aged 65 and over. For 2010 the net level of state pensions and social assistance for persons aged 65 and over is € 16.524 for a couple and € 12.017 for a single person (on a yearly basis). Because of fiscal measures for persons aged 65 years and over, the net level of income of a couple is higher than the net minimum wage level for a person below the age of 65. Both social assistance and minimum wage levels in the Netherlands are amongst the highest in the world. The level of income guaranteed for people aged 65 and over complies with the concrete norms of the European Code of the Council of Europe.

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The percentage of people aged 65 and over with rather low incomes¹ in the Netherlands is -apart from New Zealand- the lowest in the OECD countries (see OECD: Pensions at a Glance 2009). In a recent report the Netherlands Institute for Social Research (SCP) analyses the state pension/social assistance levels for both persons below and above pensionable age. The SCP judges the levels of the social assistance benefit for pensioners to be sufficient (and even relatively high related to the budget studies they undertook). To reduce the risk of non-take up of social assistance for pensioners the central institution that pays the state pension benefit (SVB) has been assigned the task to pay additional social assistance benefits if a person has a partial state pension and needs a top up to the level of the state pension. This will lead to a further decrease of non-take up and therefore to an even lesser risk of poverty.

Building pension rights in the Netherlands

Pension rights are usually built during working age and there is a relation between the periods of building rights before retirement age and the level of pension received after retirement. A long period of affiliation is usual in pension systems. Pension rights can be built in more than one country and pension systems take account of this fact. Migrants (regardless of nationality) moving from the Netherlands to other countries stop building rights. There is the option to take out voluntary insurance for the public pension.

Migrants moving to the Netherlands start building rights at the moment they legally reside in the Netherlands. If migrants run the risk of receiving a partial state pension benefit when they retire, they are eligible for paying state pension contributions retroactively if they are between 15 and 65 years old, and if they have not yet been living or working in the Netherlands for more than five years. If necessary, social assistance will top up incomes to the level of the state pension. The system therefore always guarantees that all persons -if necessary- have access to an income equal to the level of the full state pension.

The building period for the public pension in the Netherlands is 50 years of residence. The long period of building in the Netherlands has existed since the start of the public pension (AOW) in 1957. 40 years of building of public pensions is quite usual in many countries and sometimes the requirement is 45 years. The Dutch system has the advantage that it also builds public pension rights for those not working. There are also no entrance requirements to enter the system. Migrants legally residing in the Netherlands (with or without work) build pension

¹ Incomes of less than half median equivalised population incomes

rights already from the moment they reside in the Netherlands, regardless of nationality. The system as such cannot be described as being discriminatory as it is based on objective principles which are usual to many public social security systems in the world.

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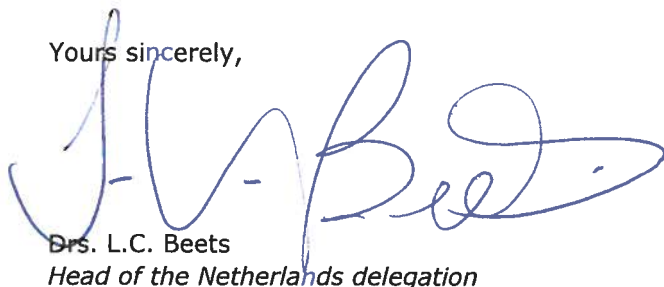
To conclude, the Dutch state pension system and the social assistance guarantees a relatively high benefit level, which is available and equal for all persons aged 65 years and over. The very small percentage of people aged 65 and over with rather low incomes in the Netherlands, as reported by the OECD, proves that the access to, use of and the level of the benefits available to persons aged 65 years and over are sufficient and adequate.

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We can therefore see no objective factual grounds for the recommendations and observations of your Committee on the Dutch state pension system. This underpins our sincere concerns. Therefore, we would like to ask your Committee to reconsider its conclusions on this subject.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'L.C. Beets', with a large, stylized flourish at the end.

Drs. L.C. Beets
Head of the Netherlands delegation