

## **Netherlands Institute for Human Rights**

### **Written Contribution**

To the 61<sup>st</sup> session of the Committee on Economic, Social and Cultural Rights (CESCR) on behalf of the consideration of the sixth periodic report of the Netherlands

1 May 2017

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## Introduction

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: the Institute) provides the Committee on Economic, Social and Cultural Rights (hereinafter: the CESCR Committee or Committee) with information for its consideration of the sixth periodic report of the Netherlands. The Institute constitutes the National Human Rights Institution of the Netherlands and has been accredited with A Status in May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the Government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out this mandate is reporting to human rights treaty bodies, including the CESCR Committee.

The Institute submitted a report to the CESCR Committee's pre-sessional working group and presented this to the working group on 10 October 2016. Many of the issues addressed in the Institute's report are subject of the issues addressed in the Committee's list of issues. The Government's responses addresses the concerns of the Institute to an extent, but the Institute notes but many are still outstanding. In the present contribution the Institute provides additional information to the Committee on a selected number of topics, with the aim to assist it in conducting a constructive dialogue with the Government. The Institute resubmits its first report since most issues are relevant for the dialogue.

## I. General information

**Status of the Covenant: List of issues, no. 1; response paras. 1-3**

The Government submits in its response that ‘the obligations created under the Covenant have been adequately incorporated into national legislation’ (par. 1). However, the legislative process shows that this submission is not supported by evidence. In addition, it is almost impossible to challenge it before a court.

The Covenant does not play a meaningful role in the legislative process. The Instruction for legislation (*Aanwijzing voor de regelgeving*) requires the legislator to examine which higher rules must be complied with. This examination is not reflected in public documents, such as parliamentary proceedings. While such documents often refer to the European Convention on Human Rights, obligations in the field of economic, social and cultural rights (hereafter: ESCR) hardly play a role. For example, major reforms in the field of social services affect access and availability of care for various groups in vulnerable situations, such as elderly persons and people with disabilities. Nevertheless, in the drafting history of the Social Support Act (2015) there is no reference to the right to health or the general obligation to progressively realize ESCR.

The 2016 Guidance on economic, social and cultural rights (*Handreiking economische, sociale en culturele rechten*) provides information to civil servants in charge of drawing up legislation and policy makers. The information in the Guidance can constitute an impetus for the examination of legislative proposals in the light of ESCR on a structural basis. However, the publication of the guidance alone will not suffice. Further awareness raising and training is required.

Courts are competent to examine in concrete cases whether national law, policy and practice is in conformity with international law. They may even set aside the conflicting domestic standard if the international norm has direct effect. This is the case when the international norm is ‘binding on all persons’, i.e. the norm is sufficiently concrete to be applied by the court and requires no further policy measures for implementation. The judiciary is reluctant to accept the direct effect of the rights laid down in the Covenant. The Government’s own position formulated in paragraph 2: ‘The Covenant’s provisions generally do not qualify as [binding on all persons]’ does not encourage the judiciary to take a different view.

Suggestion for questions:

Which measures will the Government take to ensure that draft legislation and policy is examined in the light of all human rights, so as to ensure that all laws and policies are indeed compatible with the State’s obligations under the Covenant?

Which measures will the Government take to raise awareness of the judiciary to accept that - at least elements of - Covenant provisions can be directly applied?

## II. Information relating to general provisions of the Covenant (arts. 1-5)

### Article 2, para. 2 - Non-discrimination

*Caribbean Netherlands (list of issues no. 4; response par. 7)*

The Government submits in its response that differences ‘may exist between the European and Caribbean parts of the Netherlands’ and that these differences ‘will gradually disappear in the course of the progressive realisation of the rights set out in the Covenant’.

The Institute points out that many differences between the Caribbean and European part of the Netherlands exist with respect to ESCR. These differences exist at the level of law, policy and practice. For example, laws and regulations concerning maternity leave and child allowance are less favourable for residents in the Caribbean Netherlands. People with disabilities are in a more vulnerable position in the Caribbean Netherlands. Article 1, paragraph 2, of the Statute of the Kingdom of the Netherlands provides for the possibility of differentiation. Under this provision, differing rules may be set by virtue of factors by which the islands differ fundamentally from the European part of the Netherlands.

The principle of equal treatment and non-discrimination which is laid down in article 1 of the Dutch Constitution applies throughout the Kingdom. Differentiation in the realisation of human rights between the Caribbean and European part of the Netherlands is only allowed where cases are not equal or where differentiation can be objectively justified. The motivation for the existence of different regulations is often very brief and superficial, and does not contain an evaluation of the specific circumstances at the islands, nor a proper assessment of the principle of equal treatment.<sup>1</sup> More attention is needed for the possible cumulative effects of regulations and for the timely and effective participation of relevant bodies on the islands.

Suggestion for questions:

What steps does the Government take to ensure that the rights enshrined in the Covenant are fully implemented in the Caribbean Netherlands?

What steps will the Government take to ensure that differences in legislation, policy and practice are in full conformity with the Covenant and the principle of equal treatment?

*Children with disabilities’ right to education (list of issues no. 5; response par. 8)*

The Government response points only to the mandate of the Dutch Inspectorate of Education. The Institute therefore provides additional information on this subject. Within the Dutch school system, two types of education exist: ‘regular education’, which can be considered mainstream education and ‘special education’, for children with special educational needs. The goal of the Appropriate Education Act (2014) is to find the ‘appropriate’ education for a child. Depending on a child’s ability and a school’s capacity, this will be either education at a ‘regular school’ or at a ‘special school’. The school of enrolment must investigate what it can do to enroll the child: it needs to examine what

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<sup>1</sup> Commissie evaluatie uitwerking van de nieuwe staatkundige structuur, *Caribisch Nederland, Vijf jaar verbonden: Bonaire, Sint Eustatius, Saba en Europees Nederland*, October 2015.

accommodation is necessary to compensate for the disability of the student. This is an obligation under the Disability equality legislation. If the school decides it is unable to accommodate a child, this decision needs to be confirmed by the regional cooperation board in order to refer the child to a special school. This decision can be challenged in court or before the Institute, that apply a reasonableness test and decide whether or not providing for the necessary accommodation places an undue burden on the school.

About 10,000 children each year are exempted by law from attending school for a shorter or longer period. Among these are many children with disabilities or a chronic disease. In order to reduce this number, an agreement was concluded between municipalities and the regional cooperation boards in June 2016. They agreed to work closer together in an effort to find a school for these children and to work closely with care services in preventing and addressing school drop-out. . The ultimate goal is that in 2020 no children will have to stay at home for more than three months due to the absence of a suitable place at school.<sup>2</sup>

While this is an important step forward, more needs to be done to provide for inclusive education so as to facilitate access to education for all children. At present, there are no standardized minimum accessibility norms for regular schools, neither for their physical accessibility nor for the accessibility of learning materials. Nevertheless, the Government holds the view that the educational system is compatible with the requirements of inclusive education as laid down in the Convention on the Rights of Persons with Disabilities. Therefore it has not set a timeline to change the educational system. Further, the aim of inclusive education is not mentioned in education policies.

Suggestion for questions:

What is the Government's timeline to develop an action plan to move towards an inclusive education system, including the setting of clear accessibility norms and standards for education?

*Equal rights of women (list of issues no. 7; response paras. 12-15)*

In its response, the Government does not address the Committee's questions on its actions to address stereotypes. The Institute recalls its previous report, in which it stated that existing views on the suitability and stereotypical views on the care duties, ambition and competence of women result in women being passed over as suitable candidates.

As regards the measures taken to improve the availability of affordable child care services and reconciling work and family life, the Institute observes that parents in the Netherlands receive only limited paid parental leave. Fathers' right to parental leave is two days. This system constitutes an obstacle for the economic independence of women and caring by men. The current system reaffirms inequality of women and men, rather than remedies it.

What specific measures will the Government implement so business and universities will judge women on their skills, the job requirements are objective and the effect of stereotypes will be counteracted?

What measures in respect of parental leave will the Government take to facilitate the reconciliation of work and family life for women and men?

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<sup>2</sup> [Thuiszitterspact](#), signed on 13 June 2016.

### III. Issues relating to the specific provisions of the Covenant (arts. 6-15)

#### Article 6 - Right to work

##### *Impact of antidiscrimination policies (list of issues, no. 8; response paras. 16-18)*

To some extent, the Institute agrees with the Government that in general it is not easy to assess the effectiveness of antidiscrimination policies. However, this does not imply that effectiveness cannot be assessed at all, or only in a general and vague way.

Various recent studies provide concrete information to help assess the impact of antidiscrimination measures in the labour market (in relation to education). A report on the integration of ethnic minorities in the fields of employment and education, provides relevant information about discrimination as a cause of unequal opportunities.<sup>3</sup> There is much information on discrimination and the position of ethnic minority groups in the labour market and education in recent reports published by various advisory bodies on issues such as flexible work arrangements and children growing up in poverty.<sup>4</sup> There is a huge difference in the rate of unemployment between Dutch people with a migrant background and Dutch people without such a background - 15,2% and 5,6% respectively in 2015. Only half of this difference can be explained by differences in characteristics such as education, age and work experience. Also the Institutes' Annual Report 2016 shows an increase of (reported) discrimination on the ground of race, in particular in relation to work.

Studies show that there is a persistent higher unemployment rate among ethnic minorities as well as unequal opportunities on the job market. Their equal opportunities on the labour market has not improved in the last 15 years, whereas their educational level increased significantly in this period and is almost on par with the majority of the population. Further, the Netherlands Scientific Council for Government Policy notes the relatively high percentage of flex workers among ethnic minority groups of whom the lower-educated have a low salary and often work under unfavourable and unsafe working conditions.

The findings of the reports give rise to examine which of antidiscrimination measures have worked, and which have not. The acquired insight in the lack of impact of some measures against discrimination causing unequal opportunities should help improve policies.

Suggestion for question:

What measures will the Government take to follow-up on the findings of the studies on the position of ethnic minorities?

##### *Persons with disabilities at work (list of issues, no. 10; response par. 21)*

In 2015, the Participation Act and the Jobs and Jobs Quota Act came into force. The objective of the Act was to include certain groups of persons with disabilities in the regular labour market. An assessment by the Government of the impact of these measures shows that in 2015 both private and public sector employers have exceeded their interim targets

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<sup>3</sup> Netherlands Institute for Social Research (SCP), *Integratie in zicht?* The Hague: 2016.

<sup>4</sup> Netherlands Scientific Council for Government Policy (WRR), *Voor de zekerheid*. The Hague: 2017. Social and Economic Council of the Netherlands (SER), *Opgroeien zonder armoede*. The Hague: 2017.

and that at the end of 2015 the number of persons belonging to the target group that was employed had risen compared to the baseline situation.

No data are yet available on the effect of the Participation Act and the Jobs and Jobs Quota Act in 2016. However, it has been reported that at the beginning of 2016 the number of jobs for persons with disabilities has decreased since 2015. One of the reasons given for this decrease is that employers must give a permanent contract to employees who have worked for two years. But many employers are wary of doing so. Instead they discharge these employees and recruit others. There also have been reports that the number of employees with disabilities working in the public sector was less in 2015 and 2016 than in 2012. Despite the measures taken, in 2015 almost twice as many persons with a disability were jobless compared to persons without a disability (13,3% and 6,4%, respectively). In 2016 this difference was even more significant (13,7% and 5,5%, respectively).<sup>5</sup>

Furthermore research shows that persons with disabilities often work below their level of education. This results in them stopping working within a year; half of the 55.600 young persons with disabilities (Wajongers) who started working in 2014 lost their jobs one year later because the work did not match with their abilities.<sup>6</sup>

The Jobs and Jobs Quota Act does not cover all persons with disabilities. Only persons who are registered in the target groups register count. Whether someone with a disability qualifies for this register is decided by the Employee Insurance Agency (UWV). Persons with a disability who are not registered have a lower chance of finding a job, because employers prefer someone from the register in order to meet the target and not be confronted with having to pay a fine imposed when they do not meet the target. Therefore, the incentives to encourage employers to hire persons from the target group creates a disadvantage for other persons with disabilities who do not fall within the scope of the Act. There are reports that employers do not hire persons with disabilities who are not in the register of the target group. Or they do not renew a temporary contract for this reason.<sup>7</sup> Several organizations, including the Institute, have repeatedly warned that the restrictive definition of the target group can have as an effect that certain groups of persons with disabilities will have a smaller chance of getting a job.

Suggestion for question:

What will the Government do to examine the effects, including the unintended side-effects, of the Jobs and Jobs Quota Act on persons with disabilities that do not qualify for the register? What will it do to remedy the side-effects which are detrimental to some groups of persons with disabilities?

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<sup>5</sup> [Statistics Netherlands](#), 14 February 2017.

<sup>6</sup> Research Centrum voor Opleiding en Arbeidsmarkt and Statistics Netherlands.

<sup>7</sup> <https://demonitor.ncrv.nl/werken-met-een-beperking/enquete-participatiewet-leidt-tot-verdringing-op-de-arbeidsmarkt-tussen-mensen-met-een-handicap> and information gathered by interest groups and shared with the Institute.

## Article 7 - The right to just and favourable conditions of work

### *Exploitation of migrant workers (list of issues, no. 11; response paras. 22-23)*

The Government points to various initiatives taken to raise awareness among victims and potential victims. More attention is needed to ensure compliance with existing laws. For example, in its programme of work for 2017, the SZW Inspectorate has included its actions to prevent and combat labour exploitation. It largely focuses on enhancing the willingness of victims and persons near them to report situation of (potential) exploitation.<sup>8</sup> It does not deal, however, with measures to provide support and counselling to the victims. The various initiatives are all necessary components of a policy to prevent and combat exploitation. However, there is a need for further coordination of all measures taken to ensure a coherent policy. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children has called for an all-encompassing policy which takes into account all relevant perspectives, including labour law, migration law, criminal law and human rights law and with due attention for the victim.<sup>9</sup>

The Committee's call on the State party to adopt measures to bring the rights and benefits accorded to domestic workers in line with those afforded to other workers was not followed up on. Nor has the Netherlands ratified the ILO Convention concerning decent work for domestic workers (No. 189). The Commission on domestic work concluded that the existing Regulation on domestic work is not compatible with the provisions of the ILO Convention. The government chose to uphold the current Regulation. The economic and social rights of domestic workers are insufficiently guaranteed. Those working less than four days a week for a single employer are to take out social insurance themselves and are not entitled to social security benefits. In the public sector the government proposed in December 2015 to prohibit the improper use of the Regulation by municipal authorities as per 1 January 2016. However, no changes were implemented in practice.

### *Pregnancy discrimination (list of issues, no. 13; response paras. 28-31)*

The Government action plan on pregnancy discrimination (2017) is an important step in tackling this problem. However, the Institute notes that the action plan is insufficiently concrete in specifying how the willingness to report pregnancy discrimination will be increased, and which steps will be taken to ensure that employees take the necessary steps to prevent and combat pregnancy discrimination. Moreover, the action plan does not provide for concrete targets. The Institute has called on the Government to strive towards a reduction of 50% of pregnancy discrimination experiences in five years' time.

Suggestion for questions:

What concrete measures will the Government take to further coordinate the various initiatives taken to address labour exploitation and to ensure that victims of labour exploitation receive adequate protection?

What were the results of the campaign aimed at awareness raising on the rights of domestic workers? What measures will the government implement to ensure that

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<sup>8</sup> Inspectorate of the Ministry of Social Affairs and Employment (SZW Inspectorate), Jaarplan 2017, pp. 26-27.

<sup>9</sup> See, for example, her [speech](#) to the Conference on Labour Exploitation, January 2016.

the legal position of domestic workers in both the private and the public sector will improve in practice?

What concrete measures will the Government take to reduce the prevalence pregnancy discrimination with 50% in five years' time?

#### **Article 9 - The right to social security**

##### *Delivery of social services (list of issues, no. 14; response paras. 33-36)*

The Government response focuses on aims of the decentralisation process: to facilitate and encourage the self-reliance of individuals, and to organise services differently and closer to citizens. The Institute considers this to be a potentially positive change, as it allows for more tailored provision of support. There are, however, reports that indicate that municipalities do not (yet) manage to provide for all the necessary care to vulnerable people. There are shortcomings in services for elderly, persons with disabilities and children and their families who need care. Policies and practice by municipalities should be compatible with human rights. There is, however, not yet sufficient awareness among civil servants and individuals on human rights. Further, in light of its overall responsibility, the Government should monitor the observance of ESCR.

Suggestion for question:

What measures does the Government take to raise awareness of human rights at the local level among civil servants and the general public?

##### *Social minimum in the Caribbean Netherlands (list of issues no. 16; response paras. 38-40)*

The Government submits that a social minimum linked to the statutory minimum wage will be developed. It notes that the statutory minimum wage is considered low relative to the cost of living. The living conditions of many inhabitants have clearly worsened since the transition in 2010. After the introduction of the dollar on 1 January 2012, the inhabitants have experienced drastic price increases and reduced purchasing power. The level of poverty on all three islands is worrying. As a result of requests from Parliament to set a social minimum linked to benchmarks for subsistence, like in the European part of the Netherlands, the Government has promised to provide an objective assessment of the cost of living in the Caribbean part of the Netherlands. Despite this assessment, the Government still wants to stick to the social minimum linked to the statutory minimum wage instead of benchmarks for subsistence. In accordance with article 11 ICESCR a 'safety net' should always be available for those in need. At present, the Netherlands does not comply with this obligation.

Suggestion for question:

What steps does the Government take to set a social minimum with benchmarks for subsistence in the Caribbean Netherlands?

## Article 10 - Protection of family and children

### *Elderly persons in residential care (List of issues no. 17; response para. 41)*

Independent client support can play an important role in protecting and promoting the dignity and autonomy of elderly persons in nursing homes.<sup>10</sup> For each client residing in a nursing home who needs it, the Government arranges independent client support.<sup>11</sup> Research shows that difficulties occur in practice.<sup>12</sup> There is insufficient understanding about the precise meaning of independent client support, in particular which are the core tasks. Further, it is not sufficiently clear when this supporter can be considered 'independent'.

Suggestion for question:

What measures does the government take to address the difficulties in implementing the right to independent client support in practice?

### *Domestic violence (list of issues no. 19; response paras. 44-45)*

The government response sets out the many measures that have been taken to deal with domestic violence against women and children. Nevertheless, concerns continue to exist.

The Health Inspectorate and Inspectorate for Youth Care monitor the functioning of the Safe at home centres. In October 2016 they reported to the state secretary for Health, Welfare and Sport that most centres meet with the basic expectations in terms of preconditions, safety and organisation for their functioning. However, a number of the centres does not manage to handle all reports of abuse timely. Waiting lists continue to exist. The Inspectorates underlined that 'In light of the crucial position of safety at home in combating violence against children, elderly and domestic violence, a waiting list at safety at home is unacceptable.'<sup>13</sup>

Shelters for victims of domestic violence have problems with their capacity to provide shelter to all victims of domestic violence. The Monitor on women's shelters 2016 reports that shelters are available for the most serious cases, *i.e.* women who are victims and who are under threat of further violence. This is a high threshold. In other cases, it is examined whether ambulatory support services (non-residential) would be adequate. This cannot be considered an alternative for all cases of domestic violence which do not meet the threshold mentioned. Even though a substantial number of victims of violence receive ambulatory support, the need for shelters remains high. A consequence of the policy to provide ambulatory support services when possible is that the victims who are admitted to the shelters are all victims of serious forms of (domestic) violence, often facing other problems as well. This has increased the demand for specialized and intensive treatment. Further, the shortage of adequate housing problem constitutes an obstacle for victims to move on to another safe and more permanent location.

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<sup>10</sup> Netherlands Institute for Human Rights. *Putting the client first. The importance of human rights for older persons in nursing homes*. Utrecht, 2016.

<sup>11</sup> Appendix 798536 to *Kamerstukken II 2016/17*, 31765, 262.

<sup>12</sup> Anne-Marie van Bergen, Jan Willem van de Maat, Marjan Hurkmans, *Onafhankelijke cliëntondersteuning. Een kwalitatief onderzoek naar de ervaringen van onafhankelijke cliëntondersteuners*. Movisie, Vilans, 2016.

<sup>13</sup> Inspectorate for Youth Care, [letter to the state secretary for Health, Welfare and Sport](#), 3 October 2016.

Suggestion for question:

What measures will the Government take to guarantee that adequate shelter and access to counselling and support services of high quality is provided to all victims of domestic violence?

*Domestic violence in the Caribbean Netherlands (list of issues no. 20; response par. 46)*

The Government submits that it wishes to conclude an agreement with the authorities of the Caribbean part of the Netherlands to strengthen the policy on combatting domestic violence. Despite efforts to combat domestic violence, the scope and severity of domestic violence is significant. There is a close link with poverty. The Government has acknowledged that there is a link to the housing conditions and has made a financial contribution to reach home improvements for families.<sup>14</sup> Women often work in various jobs to generate sufficient income for their family. Still, they often depend on the income of their partner and/or maintenance money paid by their ex-partner. This financial dependency makes it difficult to remove themselves from the situation of violence.

Suggestion for question:

What further steps does the Government take to implement robust socio-economic policies for poverty alleviation linked with the policy to combat domestic violence, for instance by enabling economic independence?

#### **Article 11 - The right to an adequate standard of living**

*Caribbean Netherlands (list of issues no. 23; response paras. 57-61)*

The Government submits that it is taking steps to reduce the cost of living in the Caribbean part of the Netherlands. Besides setting a social minimum linked to benchmarks for subsistence (see response to list of issues no. 16), other measures are also necessary to enable an adequate standard of living, also for disadvantaged and marginalized groups. Many people in the Caribbean Netherlands are struggling to get by. A job does not guarantee an income sufficient to meet basic needs. Moreover, it is very difficult to find work in a small and complex labour market, especially for certain groups such as persons with disabilities. It appears that people have few resources to get suitable housing of a satisfactory quality. For people with disabilities not enough suitable homes are available. Many homes are not in good condition.

Suggestion for a question:

What further steps does the Government take to implement robust socio-economic policies for poverty alleviation of disadvantaged marginalized groups, for instance people with disabilities, and to improve health and housing?

*Access to shelter (list of issues no. 24; response par. 62)*

The Government describes the procedure for monitoring shelters' capacity, without, however, addressing the problems. Statistic Netherlands reported an increase of 74% of

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<sup>14</sup> Meerjarenprogramma Caribisch Nederland 2015-2018 (Kamerstukken II 2014-2015, 34 000 IV, nr. 44).

homeless persons (from 18.000 to 31.000) between 2009 and 2015.<sup>15</sup> This number stabilised in 2016.<sup>16</sup> These numbers are indicative of a general trend. This number is likely to be an underestimation, due to the restrictive definition used by Statistics Netherlands, as well as the method of measurement. For example, not all homeless persons are registered in the Basic Municipality Registry and non-citizens are not taken into account. Further, it is difficult to assess how many women are homeless, since they will most likely not be found in the more traditional shelters for homeless persons and find alternative shelter in their own network.

There are problems in mobility in access to, and getting out of, shelters. Central to this is the general situation with regard to housing in the Netherlands. Housing for people living in poverty and lower-income groups who do not qualify for renting social housing has become increasingly unavailable and unaffordable. Persons taking steps out of homelessness are particularly affected by housing problems. The type of housing they require is largely unavailable and unaffordable. These people thus remain in shelters too long, while others cannot be admitted. Other reasons for the general increase in the number of homeless people are the financial crisis, lack of support for people with debts and cuts in the care for people with mental disabilities.

*Undocumented migrants (list of issues no. 24; response par. 63-65)*

In its concluding observations the Committee urged the Netherlands ‘to meet its core obligations under the Covenant and ensure that the minimum essential level relating to the right to housing, health and education is respected, protected and fulfilled in relation to undocumented migrants.’ This recommendation has not been complied with.

Admission of an undocumented migrant to a shelter (in a centre for restrictive accommodation, VBL) is conditional upon the person concerned making a genuine effort to arrange his or her departure. The Government refers to the case *Hunde v. the Netherlands* (17931/16). Hunde claimed that the denial of shelter and social assistance violated articles 2 and 3 of the European Convention on Human Rights (ECHR, right to life and freedom from torture and inhuman or degrading treatment, respectively). The European Court declared the complaint inadmissible. The Court’s inadmissibility decision cannot be interpreted to the effect that the Netherlands complies with article 11 of the Covenant. This provision imposes quite different obligations on States parties than articles 2 and 3 ECHR. Making the basic right to shelter conditional on cooperation in returning is incompatible with article 11 of the Covenant.

In its previous report, the Institute referred to the judgements of the highest administrative courts and the consequences thereof. At present, there still is no administrative agreement with the municipalities on providing shelter to undocumented migrants. Each municipality adopts different standards for access to shelter. The Institute remains deeply concerned about vulnerable migrants who need continuous (medical) care. The night shelter offered voluntarily by municipalities does not offer adequate facilities as it provides no continuous care. For several reasons these vulnerable groups may not have been able to take steps towards their return and can therefore not receive shelter.

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<sup>15</sup> CBS, *Aantal daklozen in zes jaar met driekwart toegenomen*, CBS, 2016.

<sup>16</sup> CBS, *Dakloos: vaker jong en niet-westers*, CBS, 2016.

Suggestion for questions:

Which measures will the Government take in order to make sure the number of homeless persons decreases? What measures will the Government take to make sure there is enough acceptable and affordable housing, notably for groups at risk of homelessness and/or groups getting out of shelters or protective housing?

Which measures does the Government take to comply with the minimum core obligations under article 11 of the Covenant and offer access to shelter to undocumented migrants who cannot comply with the conditions set by the Government?

### **Articles 13 and 14 - Right to education**

*Education and social inequalities (list of issues no. 31; response par. 81)*

In principle, primary and secondary education are free. Nevertheless, many schools request for voluntary financial contributions mainly to organise extra-curricular activities. Not paying may result in exclusion from these activities. Some schools even ask these contributions to improve the education. The amounts vary per school and can influence parents' school choice, thus potentially resulting in children from richer households receiving better quality education than children from poorer households. In fact, the Education Inspectorate recently published data which show worrying quality differences between schools. Another concern is that schools tend to advise children growing up in families with parents with lower education or in areas with many underprivileged households to pursue lower levels of education, not fully taking into account their intellectual capabilities.

Suggestion for question:

What measures will the Government take to guarantee equal access to quality education and to ensure that financial considerations do not constitute an obstacle to choose a school?