



**International covenant  
on civil and  
political rights**

Distr.  
LIMITED

CCPR/CO/72/NET/Add.1  
29 April 2003

Original: ENGLISH

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Concluding observations of the Human Rights Committee**

**THE NETHERLANDS**

**Addendum**

Replies of the Government of the Netherlands to the concerns expressed by the Human Rights Committee in its concluding observations (CCPR/CO/72/NET).

[9 April 2003]

**INFORMATION IN PURSUANCE OF PARAGRAPH 27 OF THE  
CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS  
COMMITTEE: NETHERLANDS (CCPR/CO/72/NET)**

**Introduction**

1. In pursuance of rule 70, paragraph 5 of the Human Rights Committee's rules of procedure, the Kingdom of the Netherlands was asked, in paragraph 27 of the concluding observations of the Human Rights Committee (CCPR/CO/72/NET), to forward information within 12 months on the implementation of the Committee's recommendations regarding the Kingdom of the Netherlands law on euthanasia (para. 5), the situation on post-natal infanticide (para. 6), the study of events surrounding the fall of Srebrenica (para. 7), as well as, for the Netherlands Antilles, the difficulties concerning its prison system (para. 17), and, for Aruba, the implementation of a functioning police complaints authority (para. 24).

2. In pursuance of paragraph 27 of the concluding observations of the Human Rights Committee: Netherlands (CCPR/CO/72/NET), and the letter from the Special Rapporteur for Follow-up on Concluding Observations to the Ambassador of the Kingdom of the Netherlands of 24 January 2003 (Reference: HRC f/up), the present report by the Kingdom of the Netherlands is submitted in accordance with Chapter III of the Compilation of guidelines on the form and content of reports to be submitted by States parties to the International Human Rights Treaties (HRI/GEN/2), adopted by the General Assembly on 14 April 2000.

3. This report contains the information requested by the Committee in paragraph 27 of the concluding observations of the Human Rights Committee: Netherlands (CCPR/CO/72/NET).

4. This report covers the request for information put forward to the Netherlands (the European part of the Kingdom) and Aruba; the request for information put forward to the Netherlands Antilles will be granted at a later stage.

**I. THE NETHERLANDS (EUROPEAN PART OF THE KINGDOM)**

**Paragraph 5**

5. The Termination of Life on Request and Assisted Suicide (Review Procedures) Act entered into force on 1 April 2002. In the autumn of 2001 the then Government launched a third study of the incidence of euthanasia and other medical decisions at the end of life, following on from similar studies conducted in 1990-1991 and 1995-1996. The findings will clarify the impact of policy and legislation in this area. The government that took office in July 2002, now the caretaker government, also stated that policy and legislation on euthanasia and abortion were in need of evaluation.

6. The findings of the above study of euthanasia and other medical decisions at the end of life, launched in the autumn of 2001, will be announced in mid-2003. The study will devote meticulous attention to a range of matters:

- the incidence of relevant decisions;
- physicians' actions;
- compliance with the procedures prescribed by the Act;
- the functioning of the euthanasia review committees and their review procedures;
- the consultation of a second independent physician;
- the relationship between euthanasia and palliative care;
- the situation of young people aged 12 to 16 whose suffering is unbearable, with no prospect of improvement;
- the practical significance of patients' euthanasia directives;
- the experience of surviving relatives; and
- the general public's views about, and familiarity with, the relevant legislation.

7. First, this will make it possible to compare the impact of the current policy with the figures and data that emerged from the previous studies. Second, it will shed light on the implementation of the policy and legislation that have been introduced since the previous study was concluded.

8. On the basis of the findings of this study, the Government will decide which matters need to be incorporated into its policy and which points require special attention. When it took office in July 2002, the Government stated that the best strategy would be to take no new measures for the time being, but instead to maintain the status quo until the findings of the study have been announced.

9. The Government wishes to single out one issue for special attention here.

10. The importance of consulting another independent physician has received a great deal of attention. At present there is a national network of trained GP consultants. The Government attaches great importance to the system that combines proper consultation beforehand with review afterwards. The annual report for 2001 issued by the euthanasia review committees reveals a slight fall in the number of reported cases of euthanasia. The reason for this decline is not yet known. The findings of the current study will shed light on this matter.

11. Another point that emerges from the annual report is the importance that the review committees attach to the second independent physician being a properly trained consultant.

They consider that such persons are more capable of forming a soundly based opinion than physicians who have received no special training in this area. The committees also underscore the importance of providing palliative care.

12. A copy of the annual report is enclosed herewith.

13. In light of current developments, the Dutch Government considers it best to postpone any response to your questions and observations until it can supply answers based on the findings of the study. At the present intermediate stage, any answers would necessarily be incomplete. You will therefore receive a report with a greater emphasis on substance after the findings of the study have been published and on the basis of the decisions made on future policy.

#### **Paragraph 6**

14. The termination of the life of a newborn infant does not fall within the scope of the Termination of Life on Request and Assisted Suicide (Review Procedures) Act. This is a very rare form of intervention. In the case of neonates with very serious abnormalities, the first question that arises is whether to begin medical treatment, or whether to continue or discontinue such treatment once it has been initiated. If it is decided not to give medical treatment, or to discontinue treatment, the next step is to try to alleviate the neonate's suffering with palliative treatment if it does not immediately die. Only if such measures prove powerless to prevent unbearable suffering or to prevent a death deprived of all dignity would the possibility of shortening the infant's life be raised.

15. If such a case arises, the entire decision-making process is a matter for the Public Prosecution Service.

16. Neonatologists follow a meticulously drafted protocol in which every part of the decision-making process is prepared and considered with great care.

17. The current evaluation of medical decisions at the end of life is also paying attention to this problem. The results of the study will shed light on the incidence of the different types of decisions in this area. The Human Rights Committee will be notified of these findings.

#### **Paragraph 7**

18. On 29 November 1996 the Government asked the Netherlands Institute for War Documentation (NIOD) to study the causative factors and events that had led to the fall of Srebrenica and its tragic sequel. On 10 April 2002 the NIOD presented its report, "Srebrenica, a 'safe' area", to the Government, which submitted it to the House of Representatives of the States General. In view of this report the cabinet headed by Prime Minister Wim Kok decided to resign on 16 April 2002. The House of Representatives decided on 25 April 2002 to launch a parliamentary inquiry. The purpose was to enable the House to arrive at a definitive political judgement on the actions of the House itself, of the Dutch Government, and of those bearing

administrative and military responsibility, before, during, and after the events in Srebrenica. The committee of inquiry presented its report to the House on 27 January 2003. The House is expected to engage in debate with the Government this spring on the basis of this report after which it will decide on the conclusions to be drawn.

19. Having said that, the Government disagrees with the Committee's suggestion that the provisions of the International Covenant on Civil and Political Rights are applicable to the conduct of Dutch blue helmets in Srebrenica (para. 8). Article 2 of the Covenant clearly states that each State Party undertakes to respect and to ensure to all individuals "within its territory and subject to its jurisdiction" the rights recognized in the Covenant, including the right to life enshrined in article 6. It goes without saying that the citizens of Srebrenica, vis-à-vis the Netherlands, do not come within the scope of that provision. The strong commitment of the Netherlands to investigate and assess the deplorable events of 1995 is therefore not based on any obligation under the Covenant.

## **II. ARUBA**

### **Paragraph 24**

20. The Government of Aruba regrets to inform the Committee that the new Police Complaints Decree has not yet entered into force. In the fifth periodic CCPC report of Aruba, submitted to the Committee in November 2001, the Committee was informed that a draft of a new complaints scheme had been submitted to the Aruba Police Force for their opinion. The police have since submitted their recommendations on this draft, and the necessary steps are being taken in order to conclude the legislative process.

21. The Government would also like to inform the Committee that a new Police Complaints Committee was appointed in March 2003. The committee is independent of the police force and is composed of two lawyers, a legal advisor to the Attorney-General, and a legal advisor to the Council of State.

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