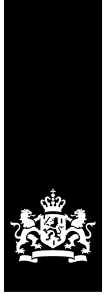


2020 Annual Report

International Human Rights Proceedings

International Law Division
Legal Affairs Department
Ministry of Foreign Affairs

Contents

Foreword

The impact of the coronavirus pandemic on the past year cannot be overestimated. The restrictions imposed to curb the spread of the virus had a substantial effect on our activities. Many international meetings were postponed and in the second half of 2020 consultations and meetings took place remotely using digital technology. As a result, the celebration of the 70th anniversary of the Convention for the Protection of Human Rights and Fundamental Freedoms (4 November 2020) was less of a festive occasion than had been planned. However, the statistics published by the European Court of Human Rights show that COVID-19 had no effect on the number of decisions and judgments. Nor was there a significant drop in the number of cases communicated to the Government (see annexes).

Until almost the end of 2020 it looked as if not a single violation of any of the human rights instruments would be found by the Court or treaty bodies. Unfortunately, in the last week of the year, we received Views from the UN Human Rights Committee stating that the Government had acted in contravention of the International Covenant on Civil and Political Rights because it was not possible for the author to be registered as stateless in the Personal Records Database. As a result, he was deprived of certain rights that he would otherwise have enjoyed.

One of the most noteworthy events of 2020 was the inter-State application brought by the Netherlands against the Russian Federation for its part in the downing of flight MH17. This was an important step in the pursuit of truth, justice and accountability in this matter. In the past, the Kingdom has made use of this option on three occasions, acting with a group of countries to lodge applications against Greece and Turkey. This is the first time the Government has submitted an inter-State application independently.

As in previous years, many people were involved in drawing up this report. Alongside staff and trainees working in the International Law Division of the Ministry of Foreign Affairs and the colleague seconded from the Council of State, contributors included colleagues at various ministries who took the lead or were closely involved in preparing the cases, namely those working at the Ministries of Justice & Security; Social Affairs & Employment; Health, Welfare and Sport; and the Interior & Kingdom Relations, as well as the Immigration and Naturalisation Service and the Public Prosecution Service.

We hope you will find this report a clear and practical guide to the Kingdom's involvement in human rights proceedings and to general developments relevant to these proceedings. It should be noted that this report is intended to be a purely informative document. When we began issuing the annual report in 1996, in response to a request from the House of Representatives, it was limited to summaries of judgments of the European Court of Human Rights. Over the years it has gradually been expanded to include information on all the other international complaint procedures recognised by the Kingdom in the area of human rights.

In response to questions from the Senate regarding the 2019 annual report, we would emphasise that the report is not a policy instrument of the Ministry of Foreign Affairs and that questions concerning the details of the cases it describes and the policy measures taken to implement the relevant bodies' decisions should be addressed to the competent minister. These questions have also prompted us to take a critical look at the information included in the report. With regard to information relating to developments in the UN context, we have decided to confine reporting to those developments directly connected with complaints procedures. One of the consequences of this decision is that from 2020 onwards, information relating to the periodic reports of the Kingdom to the UN committees supervising compliance with the UN human rights treaties will no longer be included.

If you have any comments or suggestions or would like further information, please contact us at djz-mensenrechten@minbuza.nl, tel. +31 (0)70 3486724.

The Hague, April 2021

Human Rights Group
Legal Affairs Department

Council of Europe

European Court of Human Rights

Judgments

A.S.N. and others, and S.S.G. and others (68377/17 and 530/18, 25 February 2020)
This case originated in applications to the Court from two Afghan families who, as Sikhs, belong to a vulnerable minority group. On the basis of that minority status they applied for asylum in the Netherlands.

The first application to the Court was made by a married couple with two minor children, who applied for asylum on 22 October 2015. They claimed that the wife's sister had been kidnapped by the Taliban and that they had received letters threatening to kidnap the wife as well if the family did not pay a ransom. The applicants also stated that their children had been repeatedly bullied and beaten on account of being Sikhs, and that they had not been able to attend school for a year before they left the country. The applicants stated that they had left Afghanistan five months after the kidnapping, on 16 October 2015, and arrived in the Netherlands on 19 October 2015. The State Secretary for Justice and Security denied their asylum application on the grounds that their account lacked credibility. In the State Secretary's view, the applicants had not sufficiently established that they had only recently left Afghanistan nor that they had grounds for fearing persecution within the meaning of the UN Refugee Convention. What is more, the general security situation in Kabul did not entail a real risk of a violation of article 3 of the Convention. In addition, the applicants did not claim to have any special distinguishing features and had been unable to demonstrate that the human rights of persons in their immediate circle belonging to the same vulnerable minority group had been violated. The district court dismissed their application for review of the State Secretary's decision; on appeal the Administrative Jurisdiction Division of the Council of State upheld the district court's decision. The applicants' second asylum application was also denied. The application for review and the appeal they lodged were again declared unfounded.

The second application concerned a family consisting of a married couple, two minor children and the children's grandmother. They applied for asylum in the Netherlands on 6 June 2014, claiming that intruders had forced their way into their house in Kabul, robbed them and attempted to kidnap the mother. In the struggle the grandfather was killed. The applicants stated that before the attack on their home, they had constantly been harassed because they were Sikhs and that the children had therefore not attended school for some time. The State Secretary for Justice and Security denied their asylum application on the grounds that they had not established that they had only recently fled Afghanistan. Furthermore, their statements regarding the alleged events were not considered credible due to inconsistencies, nor had they plausibly established that they faced a real risk of treatment contrary to article 3 of the Convention. The district court dismissed their application for review of the State Secretary's decision; on appeal the Administrative Jurisdiction Division of the Council of State upheld the district court's decision. The applicants' second asylum application was also denied. The application for review and the appeal they lodged were again declared unfounded.

The applicants in both cases complained that their removal to Afghanistan would be in violation of article 3 of the Convention. The Court held that, in any event, the security situation in Kabul was not such that returning a person there would necessarily constitute a violation of article 3 of the Convention. The Court also noted that the situation of Sikhs in Afghanistan gave cause for real concern. Nevertheless, the situation was not such that every Sikh had cause to fear treatment incompatible with article 3 of the Convention. The Court concluded that past ill-treatment provides a strong indication of a future, real risk of a violation of article 3 of the Convention. However, the State Secretary had decided that the applicants' accounts were not credible. The Court stated that it was not its task to substitute its own assessment of the facts for that of the domestic courts and it therefore saw no reason to depart from the conclusions drawn by the national authorities and national courts regarding the lack of credibility of the applicants' accounts.

Furthermore, the Court ruled that the applicants had not succeeded in sufficiently demonstrating that they would face a real risk of a violation of article 3 of the Convention if returned to Afghanistan. The Court had already concluded that the situation of Sikhs in Afghanistan was not such that they could be said to be members of a group that was systematically exposed to a practice of ill-treatment. Nor had the applicants been able to demonstrate that the human rights of persons in their immediate circle belonging to the same vulnerable minority group had been violated.

The Court further noted that the applicants were apparently in good health, that they would not be the only Sikhs in Kabul and that there was at least one school for Sikh children open in the city. In its ruling of 25 February 2020, the Court held that there would be no violation of article 3 of the Convention if the applicants were removed to Afghanistan. The interim measure under rule 39 of the Rules of Court would remain in force until the judgment became final or until further order. On 20 April 2020 the applicants requested that the case be referred to the Grand Chamber. On 7 September 2020 their request was rejected. On that date therefore, the judgment of 25 February 2020 became final.

S.A. (49773/15, 2 June 2020)
On 14 May 2010 the applicant arrived in the Netherlands with a genuine passport issued by the Chad authorities. On 26 May 2010 he lodged his first application for a temporary asylum residence permit. Language analysis showed that the applicant originated from Sudan and that his Arabic showed features of the Arabic spoken in the Khartoum area, not Darfur. The asylum application was denied. The application for review and the appeal lodged by the applicant were declared unfounded, on the grounds that his claims regarding his identity and Sudanese nationality were not considered credible, as he had arrived in the Netherlands on a genuine Chadian passport. However, the applicant asserted that it was an illegally obtained passport containing someone else's details, obtained from a corrupt person. He claimed to be a Sudanese national, from south Darfur, and feared that he would be exposed to treatment incompatible with article 3 of the Convention because he belonged to the Tunjur, a non-Arab ethnic group. In addition, the applicant claimed to be at risk of forced recruitment and that the general humanitarian situation in Sudan presented further risks.

On 24 October 2014 he lodged a second asylum application, submitting a declaration of residence and a statement of origin issued by the Sudanese authorities. Since they did not establish the identity or nationality of the applicant, these documents did not warrant any departure from the conclusions reached in the first asylum procedure. By decision of 9 November 2014 the second asylum application was also denied.

On 9 October 2015 the applicant was informed that he would be removed to Sudan on 10 October 2015. The applicant lodged an objection to this decision. He requested the Court to impose an interim measure under Rule 39 of the Rules of the Court to prevent his removal to Sudan. The Court granted this request, prohibiting the removal of the applicant until further notice. The applicant claimed that his case should be assessed in light of article 3 of the Convention before he was removed to Sudan.

On 15 January 2016 the applicant lodged a third asylum application, which was also denied. In this procedure the Government concluded that his removal to Sudan would not be contrary to article 3 of the Convention. It did not consider his claims regarding his origin and stay in Darfur to be credible because his statements in this respect were vague and summary. Furthermore, the results of the previously conducted language analysis contradicted his claims. The applicant did not contest this decision.

The applicant then travelled to France and applied for asylum there. At France's request, the Government assumed responsibility for this application and the applicant returned to the Netherlands. The Immigration and Naturalisation Service decided to withdraw the decision denying his third asylum application and to take a fresh decision on that application. After

further inquiries, the authorities concluded that the applicant came from Khartoum, where he was unlikely to be at risk.

On 2 June 2020 the Court ruled that the applicant had not plausibly demonstrated that there were sufficient grounds for assuming that his return to Sudan would entail a risk of a violation of article 3 of the Convention. It indicated that the interim measure should remain in force until the judgment became final. The Court further stated that it was not its task to substitute its own assessment of the facts for that of the domestic courts and it therefore saw no reason to depart from the conclusions drawn by the national authorities regarding the lack of credibility of the applicant's statements, more specifically those concerning geographical issues. The Court also observed that although the situation in Sudan was not ideal, it was not such that the return of any person of non-Arab origin would constitute a violation of article 3 of the Convention solely on the grounds of their ethnicity. Nor had the Court found any concrete indications that the Sudanese authorities had shown a negative interest in the applicant.

On 4 September 2020 the Court informed the Government that no request had been made to refer the case to the Grand Chamber and that the judgment had therefore become final on 2 September 2020.

K.A. (3138/16, 2 June 2020)
The applicant was born in the Netherlands and is a Moroccan national. He has spent his whole life in the Netherlands and has visited Morocco only once. From his birth up to 2013 he held a renewable temporary residence permit for the purpose of exercising his right to family life with his parents. In 2005 he was late in renewing his residence permit, and as a result was illegally resident in the Netherlands for nearly a month.

In 2009 the applicant was involved in a road accident in Spain in which his sister and uncle died. The applicant claimed that he had never really recovered from the trauma of the accident and was suffering from PTSD. Before the accident he had already been convicted of a number of minor offences but following the accident he became caught up in ever more serious crime. On 22 October 2013, in view of his multiple convictions, the Immigration and Naturalisation Service (IND) withdrew the applicant's residence permit, imposed a ten-year entry ban and informed him that he was required to leave the country immediately. This decision was based on the nature and seriousness of the offences he had committed, in particular an armed robbery, and the fact that he had been sentenced to a term of imprisonment of 42 months. The applicant stated that he had lived his whole life in the Netherlands on the basis of a residence permit, with the exception of a single month in 2005. For this reason, he contended that the IND was wrong to assume that his residence could be terminated under the rules regarding persistent offenders. However, the authorities argued that the duration of his lawful residence in the Netherlands gave no grounds for waiving the withdrawal of his residence permit.

On 31 October 2013 the applicant lodged an objection to the IND's decision. On 3 June 2014 the IND declared the objection to be unfounded. On 10 June 2014 the applicant lodged an application for review of the decision on the objection. By judgment of 28 October 2014 the district court declared the application for review unfounded. It ruled that the interference in the applicant's private and family life was justified, which meant that there was no violation of article 8 of the Convention. The applicant had not sufficiently substantiated his social and cultural ties with the Netherlands. Nor had he demonstrated that more than 'normal emotional ties' existed between himself and his parents and siblings. Furthermore, he had not established that, as an adult who had grown up in both the Dutch and the Moroccan cultures, he would not be able to manage by himself in Morocco. The applicant's appeal against this judgment was dismissed by the Administrative Jurisdiction Division of the Council of State on 10 July 2015.

In January 2016 the applicant lodged an application with the Court. In his view, the decision to expel him and impose an entry ban violated his right to respect for his private and family life under article 8 of the Convention. He referred once again to the mistake with regard to the

renewal of his residence permit in 2005 and argued that neither expulsion nor the entry ban would have been possible if that mistake had not occurred. The applicant further claimed to be dependent on his family because he had no income of his own. In his opinion, this was enough to justify assuming more than normal emotional ties. Although he acknowledged his criminal convictions, the applicant found expulsion and an entry ban to be disproportionate in light of the penalties that had already been imposed on him.

The Government took the view that expulsion and an entry ban did not constitute a violation of article 8 of the Convention. In its opinion, the applicant – who was an adult at the time the measures were imposed – had no family life with his parents warranting protection under article 8 since it had not been demonstrated that there were additional elements of dependency in the relationship between them. Although the Government understood the applicant's situation and acknowledged that a traumatic past event and his mild intellectual disability could have affected his personal life, it believed that these factors did not explain or excuse his very serious and persistent criminal behaviour. It could be assumed that he would be able to build a life for himself in Morocco, possibly with the support of family members in the Netherlands and Morocco.

The Court emphasised that very strong reasons are required to justify the expulsion of settled migrants. It acknowledged that the measures would have a serious impact on his private and family life, given the duration of his residence in the Netherlands and his limited ties with Morocco. However, having regard to the persistent and serious nature of his criminal behaviour, the Court considered the measures to be proportionate to the aims pursued. In its judgment of 2 June 2020, the Court therefore held that the applicant's expulsion and the implementation of the entry ban would not be in violation of article 8 of the Convention. The judgment was not referred to the Grand Chamber and therefore became final on 2 September 2020.

H.P. (25402/14, 28 July 2020)
The applicant was born in Indonesia to an Indonesian mother. After her death, he travelled to the Netherlands at the age of four with his presumed father, a Dutch national, on an Indonesian passport containing a tourist visa. In the Netherlands he was brought up by his presumed uncle and aunt, both Dutch nationals, whom he regarded as his foster parents. His presumed father died in 1999. The applicant claims that it was only in 2004 that he discovered that he was not lawfully resident in the Netherlands. Until that time he had believed he was a Dutch national.

In 2006 the applicant lodged an application for extended family reunification. In 2007 the application was denied: the applicant was unable to provide proof of his presumed Dutch nationality and was considered to be a danger to public order on account of his conviction in 2006 of sex offences (article 246 Criminal Code). The decision denying his application emphasised that the applicant had never been lawfully resident in the Netherlands, and that in the balancing of interests, his criminal conviction outweighed his ties with the Netherlands and any difficulties he might have if returned to Indonesia. The applicant lodged an objection, which in 2008 was dismissed on the same grounds, with importance also being attached to the fact that he had in the meantime been convicted of further sex offences. The applicant lodged an application for review of this decision, arguing that insufficient account had been taken of his ties with the Netherlands and insufficient weight attached to his interests. The decision was ultimately upheld in 2013 by the Administrative Jurisdiction Division of the Council of State, which ruled that in denying his application, the authorities were right to attach great weight to the seriousness of the offences, the fact that the applicant was a persistent offender and that he was an adult when he committed the offences.

The applicant argued before the Court that the Government had violated his right to respect for his private and family life (article 8, ECHR) by attaching too much weight to his convictions and too little to his ties with the Netherlands. In 2016 the applicant signed a 'departure declaration' provided by the International Organization for Migration, in which he stated that he would cease all efforts to obtain a residence permit in the Netherlands in return for financial

assistance. He left the Netherlands voluntarily in 2016. In its judgment of 28 July 2020 the Court ruled that considerable weight must be attached to the applicant's ties with the Netherlands and if he had not repeatedly been convicted of serious criminal offences (including convictions after he became an adult), his right to respect for family life should also have weighed heavily in the balance. However, since the applicant was a persistent offender after reaching the age of majority, and in view of the seriousness of his offences – committed in the period he was applying for a residence permit – the Court concluded that the Government had attached sufficient weight to all the competing interests and had not overstepped the margin of appreciation. There had thus been no violation of article 8 of the Convention. On 27 October 2020 the applicant requested that the case be referred to the Grand Chamber. On 14 December 2020 his request was rejected. On that date therefore, the judgment of 28 July 2020 became final.

Z.H. (45582/18, 30 January 2020)
The applicant is an Afghan national, originating from Kabul and born in 1987. Having exhausted all domestic remedies in respect of her failed asylum application, she lodged an application with the Court in September 2018. She claimed that her expulsion to Afghanistan would constitute a violation of article 3 of the Convention. While her application to the Court was pending, she lodged a fresh asylum application based on new circumstances. The Immigration and Naturalisation Service granted this application. The Court decided to strike the application out of its list of cases on the grounds that the matter had been resolved within the meaning of article 37, paragraph 1 (b) of the Convention.

Z.N. (71676/14, 28 May 2020)
On 25 January 2011 the applicant lodged an asylum application, which was denied. Having exhausted all domestic remedies in respect of his failed asylum application, he lodged an application with the Court on 31 October 2014. On 4 March 2020 the Court informed the applicant that he had not complied with the Court's request to submit information concerning his current whereabouts and situation. The Court decided to strike the application out of its list of cases on the grounds that under article 37, paragraph 1 (a) of the Convention it could be assumed that the applicant no longer wished to pursue his application.

R.B. and N.R. (45067/18, 3 September 2020)
The case concerned an incident which occurred in 2016, when the applicants' 23-year-old son, who suffered from autism and schizophrenia, died after being shot by the police. Care workers who wanted to visit the applicants' son in connection with a possible involuntary admission to a mental healthcare institution had requested police assistance. After entering the son's flat, the police tried to search him. When he allegedly pulled a knife, the police drew their firearms and two officers shot the man, who died a day later in hospital as a result of his injuries.

The National Criminal Investigation Department investigated the incident. On 21 February 2017, the Public Prosecution Service decided not to prosecute on the grounds that the police officers involved had acted in self-defence. The applicants subsequently filed complaint proceedings with Amsterdam Appeal Court under article 12 of the Code of Criminal Procedure, arguing that the investigation conducted by the National Criminal Investigation Department had been neither effective nor objective. They further claimed that – since it had been established that there was no danger – the continuing presence of police officers and the security search were unnecessary or were not carried out with sufficient care, which needlessly escalated the situation. The applicants also contended that the investigation was one-sided and that their son was portrayed as a dangerous man. On 4 April 2018 Amsterdam Appeal Court dismissed the complaint, ruling that although the use of force was not in accordance with the relevant code of conduct, it had been plausibly established that the police officers had used their firearms in legitimate self-defence.

The applicants lodged an application with the Court, claiming that the force used was not absolutely necessary and that there were serious shortcomings in the criminal investigation (article 2, ECHR). In addition, they complained that the failure to bring a charge of manslaughter against the police officers concerned had led to a violation of article 2, possibly in conjunction with article 13 of the Convention, since the facts had not been established in an impartial manner nor had an impartial decision been taken on whether the use of force, resulting in death, had constituted a criminal offence.

On 15 July 2020 the Government informed the Court that a friendly settlement had been reached. As a consequence, the applicants withdrew their application and the Court struck the application out of its list.

F.O. and others (48125/19, 15 October 2020)
The applicants are a married man and woman and their minor child. They are Nigerian nationals. They complained that their transfer to Italy under the Dublin Regulation was incompatible with article 3 of the Convention, since the Italian authorities had provided no guarantees that they would be housed in reception facilities suited to a family with a baby.

Since the deadline for the transfer of the second applicant and her child had expired, the Government decided to process the asylum applications of all three persons under the Dutch asylum procedure. The Government therefore requested that the Court strike the application out of its list. The applicants then informed the Court that they did not wish to pursue their application and on 15 October 2020 the Court decided to strike the case out of the list for this reason, pursuant to article 37, paragraph 1 (a) of the Convention.

B.Y.C. and L.M.C. (7338/16, 15 October 2020)
The applicants are a mother and her minor daughter. They are Guinean nationals. The applicants complained that they would face a real risk of treatment incompatible with article 3 of the Convention if they were removed to Guinea. The daughter faced a real risk of being subjected to female genital mutilation and the mother of being subjected to a repetition of this treatment. After the applicants had been granted residence permits under article 8 of the Convention, the Government requested that the Court strike the application out of its list. The applicants then informed the Court that they wished to withdraw their application. On 5 November 2020 the Court decided to strike the case out of the list as the matter had been resolved within the meaning of article 37, paragraph 1 (b) of the Convention.

Decisions against third countries

M.N. and others v. Belgium (3599/18, 5 May 2020)
The applicants are a Syrian family of four persons originating from Aleppo. In 2016 they applied for short-stay visas on humanitarian grounds at the Belgian consulate in Beirut. Their plan was to apply for asylum in Belgium once they arrived there. When their visa applications were denied, they applied for long-stay visas. These applications were also denied. The applicants then lodged an application under the extremely urgent procedure with the Belgian Aliens Appeals Board, requesting a stay of execution of the decisions denying their applications. The Board ruled that the execution of the decisions should be stayed and requested that the Belgian State review the applications within 48 hours. The applications were once again denied, on the same grounds. The Board concluded that the Belgian authorities had not met the requirement to substantiate their view that the family did not face a serious risk of treatment incompatible with article 3, given the alarming security situation in Aleppo, and that the State should take fresh decisions on the applications. The applications were once again denied and further applications for judicial review were also dismissed. The Belgian State refused to comply with the Board's rulings. The applicants then brought proceedings before the Belgian court of first instance. This court held that the Belgian authorities should have complied with the Board's rulings. The State lodged an appeal against this judgment. Having exhausted all domestic remedies, the applicants lodged an application against Belgium with the Court, relying on articles 3, 13 and 6 of the Convention. Although legally binding only on Belgium, this was expected to be a benchmark judgment. In light of the obvious significance of the outcome of the dispute for EU asylum policy, the Kingdom of the Netherlands (and other states) decided to make third-party interventions.

In its decision the Court held that it could not address the merits of the case because the applicants did not fall under the jurisdiction of Belgium, as required by article 1 of the Convention. The fact that the applicants had submitted visa applications in respect of which the Belgian authorities had given a decision was insufficient to place them under Belgian jurisdiction. The Court pointed out that they had never been in Belgian territory or an area in Syrian or Lebanese territory over which Belgium exercised any kind of control. In addition, the

applicants had no pre-existing ties of family or private life with Belgium. Nor did the embassy staff at any time exercise *de facto* control over the applicants.

The Court declared the application inadmissible on the grounds that all the alleged violations fell outside the Convention's scope of application.

Committee of Ministers[1]

F.C. (29593/17, 9 October 2018)
The Court ruled that the circumstances of the applicant's detention were in breach of article 3 of the Convention since the applicant had been held in the detention facility for over eight months, while the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had found the conditions in the facility to be so poor that no-one should be held there for more than 10 days. The sums for non-pecuniary damage and costs and expenses awarded by the Court were paid to the applicant within the set time limit.

In April 2019 the Government submitted its first Action Plan to the Committee of Ministers. The Action Plan outlined the measures taken to execute the Court's judgment. On 17 December 2020 an updated version was submitted. This most recent Action Plan described the general measures taken by St Maarten. First, the detention facility adjacent to the Philipsburg Police Station where the applicant was held had been improved through the installation of larger windows, allowing for better ventilation and greater access to natural light. With regard to the length of detention in the cells adjacent to the police station, the Committee was referred to the policy of the Public Prosecutor's Office, which is that detainees should not be held there for more than 10 days. However, the Government also referred to the dilemmas facing the Public Prosecutor's Office, as described in the Detention Capacity Assessment Framework of January 2020. This document provides insight into the policy in force.

The Action Plan of December 2020 further referred to cooperation within the Kingdom on improving the overall detention system, including the construction of a new multifunctional detention centre, for which €30 million had been made available. Discussions on this subject were in progress with the United Nations Office for Project Services (UNOPS), which had completed a project proposal containing the following elements.

(i) transitional facilities for the urgent accommodation of all detainees;
(ii) a long-term detention infrastructure;
(iii) improved capacity in terms of the operation and management of prisons.

The project will be carried out in two phases. The first is expected to take 13 months, the second 48 months. The first phase consists of provisional measures, including the construction of a rapidly available prison that meets international standards. The St Maarten government has asked UNOPS to ascertain whether use can be made in this phase of container cells shipped in 2019 from Bonaire to St Maarten, whose use was delayed as greater infrastructural modifications were required than had been foreseen.

The Government now awaits the Committee of Ministers' response to this updated version of the Action Plan submitted on 17 December 2020.

[1] Measures taken by the Government to execute Court judgments in the reporting year which were transmitted to the Committee of Ministers in the framework of its responsibility to supervise the execution of judgments under article 46, paragraph 2 of the Convention. See Annexe I for an overview of all cases under supervision and those where supervision was concluded in the reporting year.

European Committee of Social Rights

Decision

University Women of Europe (UWE) (No. 134/2016, 6 December 2019, notification on 28 February 2020)
UWE contended that the pay gap between men and women and the under-representation of women in decision-making positions in private companies in the Netherlands were in violation of articles 1, 4 (3), 20 and E of the European Social Charter.

The Committee concluded that in regard to the recognition and enforcement of the right to equal pay for work of equal value, there was no violation of articles 4 (3) and 20 (c) because in the Netherlands both the principle of equal opportunities and the prohibition of discrimination were enshrined in national legislation. This legislation contained provisions banning discrimination on grounds of gender, as well as specific provisions prohibiting discrimination in employment, including in respect of pay and dismissal. The Committee was therefore of the opinion that the obligation to recognise the right to equal pay for work of equal value had been met.

The Committee further held that as regards access to effective remedies, there was no violation of articles 4 (3) and 20 (c): access to the courts in the Netherlands was ensured in general and effective remedies were available.

The Committee also held that there was no violation of articles 4 (3) and 20 (c) as regards equality bodies. In its view, the Netherlands Institute for Human Rights functioned well. The Institute had a broad mandate and the means to implement that mandate. The obligation to maintain a body that protects the right to equal pay had therefore been met.

In addition, the Committee concluded that there was no violation of article 20 (d) as regards measures to ensure the balanced representation of women in decision-making positions in private companies, noting that there had been a substantial improvement in the situation.

With regard to pay transparency, the Committee found a violation of articles 4 (3) and 20 (c), since individual employees most often did not have full access to relevant data concerning wages in their organisation and Dutch law did not lay down parameters for establishing the equal value of the work performed.

Finally, the Committee found a violation of article 20 (c) on the grounds that insufficient measurable progress had been made in promoting equal opportunities between men and women in respect of equal pay. The Committee observed that the gender pay gap was both considerable and persistent. The measures adopted by the Government had not led to substantial and measurable progress.

Follow-up

Pending the examination by the Committee of Ministers of the Committee's report,[2] on 18 November 2020 the Government informed the Committee of Ministers of measures taken and measures envisaged.

[2] Under article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the Committee of Ministers adopts a resolution or a recommendation on the basis of reports drawn up by the Committee of Independent Experts of the ESCR.

With regard to the lack of pay transparency, the Government stated that increasing transparency could play a role in further reducing pay disparities. In this context, on 15 June 2020 the Government sent a letter to Parliament on its approach to tackling discrimination. The letter stated that the Ministry of Social Affairs and Employment was exploring the scope for measures to promote pay transparency. On 5 October 2020 an amended private member's bill on equal pay for women and men was introduced in the House of Representatives by a number of opposition parties. The bill includes an obligation to disclose the extent of differences in pay. In addition, companies regularly employing at least 250 people must obtain a certificate stating that women and men receive equal pay within the company.

With regard to the lack of substantial and measurable progress in eliminating pay disparities, the Government acknowledged that although studies by Statistics Netherlands (CBS) showed that pay disparities between men and women had been steadily declining since 2008, progress was slow. The Government pointed out that according to a CBS study conducted in 2018 on the basis of the 2016 figures, the adjusted pay difference between men and women was 5% in the public sector and 7% in the private sector. Closing the pay gap was part of the 2018-2021 Action Plan on Labour Market Discrimination, which consisted of a range of measures whose implementation is ongoing. For example, on 21 September 2020 the Labour Foundation, a national consultative body made up of leading trade union federations and employers' organisations, published a digital guide on equal pay for men and women, containing tools and background information promoting equal pay and targeting a range of groups in the private sector.[3] In addition, the NVP[4] has a job application code of conduct that contributes to closing the pay gap and aims to prevent labour market discrimination, which is often unintended, and reduce pay disparities.[5] The aim of the Code is to provide a standard for transparent and fair recruitment and selection procedures. In addition, up to the end of 2019 the Government funded a WOMEN Inc. campaign to make employers and women aware of the pay gap. The campaign included the '#15% less' strategy and the Equal Pay Check, enabling employers to easily measure whether there is a pay gap within their organisation. Central government also drew attention to the issue in its 'Looking further' campaign that emphasises the strengths of a diverse workplace and the opportunities created by looking beyond the norm when talent is hard to find.[6]

A large proportion of the pay gap stems from the different positions of men and women on the labour market. For example, in the Netherlands many women work fewer hours in part-time jobs, which means that they earn less than men and have fewer opportunities for promotion. A variety of measures have been taken and will be taken to encourage women to increase their hours of work. Measures already taken include the expansion of parental leave for partners,[7] investment in child care, reduction of the tax on labour income, the introduction of the Flexible Working Arrangements Act and publicity campaigns. The introduction of paid parental leave may also make a contribution in this respect.[8] Finally, the Government pointed out that the concluding report on future scenarios for child care facilities was expected at the end of 2020. In 2019 the Social and Economic Council (SER) published recommendations on the advancement of women to higher positions in a report entitled 'Diversity in the boardroom: time to accelerate'.[9] The House of Representatives passed three motions urging that the SER's

[3] https://www.stvda.nl/nl/thema/arbeid-zorg/gelijke-beloning (Dutch only).
[4] The Dutch Network for HR Professionals.
[5] In cooperation and consultation with the Labour Foundation, the Job Applications Code Committee has updated the current Code of Conduct and brought it into line with recruitment and selection practice in 2020: https://www.nvp-hrnetwerk.nl/sollicitatiecode (Dutch only).
[6] In the campaign the government worked with the BNR radio news channel, which devoted a weekly item (the 'employers' inclusivity desk', part of BNR's business programme 'Zakendoen') to diversity issues in the labour market. Podcasts and long reads were also produced, covering subjects such as discrimination on grounds of pregnancy and pay discrimination. The target group gave the campaign a rating of 7.1.
[7] Since 1 January 2019 partners have been entitled to the number of hours they work in a week as parental leave. In addition, as of 1 July 2020, partners can receive a maximum of five times the weekly number of working hours as supplementary parental leave at 70% of their daily wage (subject to an upper limit of 70% of the maximum daily wage).
[8] Planned date of entry into force: 2 August 2022.
[9] https://www.ser.nl/en/Publications/diversity-boardroom

recommendations be adopted and the Government is currently working on legislation to implement them. The new legislation will impose a quota for supervisory directors of listed companies. In addition, large companies will be obliged to formulate appropriate and ambitious targets for senior levels, provide transparency about those targets and develop a strategy on how and when they aim to achieve the goals set. At present, the SER is developing an infrastructure for monitoring progress and supporting companies.

Having submitted this information on 18 November 2020, the Government now awaits the decision of the Committee of Ministers on the report of the ESCR.

United Nations

Human Rights Committee

Views

D.Z. (2918/2016, 19 October 2020)
The author was born in the Netherlands in 2010 and is registered in the Personal Records Database with the note 'nationality unknown'. He stated that his mother had been born in China but her birth was not recorded in the civil registers there. As a result, she had no documents attesting to her identity. His mother arrived in the Netherlands in 2004. She later lodged a criminal complaint with the police on the grounds of human trafficking, but in 2009 the investigation was closed as the police could not trace the perpetrators. The applicant's mother tried without success to obtain documents to prove that the applicant was stateless so that he could benefit from the international protection afforded to stateless children. In 2012 she asked the municipality of Utrecht to change her son's entry in the database to 'stateless'. This request was denied because she did not have the documents to prove that he did not have Chinese nationality and was therefore stateless. In appeal proceedings the Administrative Jurisdiction Division of the Council of State ruled that neither national nor international law contained any rules regarding procedures for determining statelessness which the authorities were obliged to follow, nor were there any rules obliging the authorities to conduct inquiries and determine a person's status. The Administrative Jurisdiction Division further held that as long as the statelessness of persons without nationality had not been determined, they could not invoke the protection afforded by the statelessness conventions and the Dutch legislation pursuant to those conventions. However, the Division noted that it would go beyond the law-making powers of the judiciary to remedy this situation. In 2015 the author requested that the municipality of Katwijk recognise him as a Dutch national. This request was denied on the grounds that his statelessness could not be proven. His application for review of this decision and the appeal he subsequently lodged were both dismissed.

The author claimed that his right as a minor to acquire a nationality as referred to in article 24, paragraph 3 of the International Covenant on Civil and Political Rights had been violated since he had no real prospect of acquiring a nationality. In his view, this was the result of the State party's failure to implement article 24, paragraph 3 of the Covenant in legislation concerning immigration, civil status and nationality. The author further claimed that the State party had not met its obligation to ensure that all children, including those who were stateless, enjoyed all the rights provided for in the Covenant and that, as a result, article 24, read alone and in conjunction with article 2, paragraph 2 of the Covenant, had been violated. The protection against statelessness offered by the authorities was insufficient since (i) there was no procedure to determine statelessness and (ii) no other measures had been taken to prevent and reduce statelessness among children. The author also complained that his right to an effective remedy (article 2, paragraph 3, ICCPR) had been violated, and that this had been acknowledged by the Administrative Jurisdiction Division.

The Committee recalled that under article 24 of the Covenant every child has the right to special measures of protection because of his or her status as a minor. Furthermore, the principle that the child's best interests should be the primary consideration in every decision affecting them formed an integral part of every child's right to measures of protection. The Committee noted that states were required to adopt all appropriate measures, both internally and in cooperation with other states, to ensure that every child has a nationality when they are born. It further referred to UNHCR Guidelines No. 4 to the 1961 Convention on the Reduction of Statelessness, which state that contracting states must accept that a person is not a national of a particular state if the authorities of that state refuse to recognise that person as a national either through an explicit statement to that effect or by failing to respond to inquiries to confirm an individual as a national. The Committee also pointed out that the

Guidelines state that the burden of proof must be shared between the individual and the contracting state.

The Committee further recalled its concluding observations on the Kingdom's fourth and fifth periodic reports on compliance with the ICCPR in respect of statelessness. It noted that the author's mother had repeatedly contacted the Chinese authorities to confirm whether they considered the author to be a Chinese national, without success. In addition, her requests that the author's status in his entry in the personal records database be changed to 'stateless' were denied on the grounds that he did not have the documentation to prove statelessness. Nor had the authorities indicated what steps the author's mother could take to obtain official documents on his status from the Chinese authorities. Finally, the Committee noted that in 2017 the State party acknowledged that the author was at that time unable to effectively enjoy his right as a minor to acquire a nationality. The Committee concluded on the basis of the facts before it that article 24, paragraph 3, read alone and in conjunction with article 2, paragraph 3 of the Covenant had been violated.

O.T. (2782/2016, 13 March 2020)
The author has lived in the Netherlands since 2001 and held an asylum residence permit from 1 June 2001 to 1 June 2004. On 26 July 2016 the Immigration and Naturalisation Service decided to grant him a residence permit valid from 27 June 2016 to 7 May 2018. The entry ban imposed on him was withdrawn.

Following this decision the State party asked the Committee to discontinue its consideration of the communication. On 13 March 2020 the Committee decided to do so as the author had been granted a residence permit and had agreed to consideration of the case being discontinued.

B.P. and P.B. (2974/2017, 13 March 2020)
In this case the authors (P and B, both Hungarian nationals) claimed that the Netherlands had violated their rights under articles 2 (3), 6, 7, 9, 17 and 26 of the Covenant. In essence, the case concerns the requirement of a fixed address to be eligible for social benefits and healthcare insurance. The authors were unable to meet this requirement, as a result of which they encountered repeated difficulties with regard to both.

The authors stated that they had lived in the Netherlands since 2001. Although they live together, they are not partners. P takes care of B, who suffered a physical injury in an incident in Amsterdam in 2014. Since 2015 the authors have applied to the municipalities of Amsterdam and Haarlem on several occasions for social benefits and housing benefit. Most of these applications were denied because the authors had no fixed address; failed to cooperate with the authorities; submitted applications too late; or on other grounds. On 27 July 2015 the municipality of Haarlem granted their applications for social benefit, awarding each of them €549 per month. However, the authors took the view that this amount was too low since the authorities had incorrectly assumed that they were partners. For this reason, the authors asked the municipality to review its decision, but their request was denied. They lodged an application for review with the district court but it was declared inadmissible and the appeal lodged with the appeal court was declared unfounded. As of 9 March 2017 the municipality of Amsterdam granted P social benefits because she had become homeless, at the same time informing P that it would pass this information on to the Immigration and Naturalisation Service (IND). The authors claim that the IND's inquiries led to the conclusion that she was not lawfully resident, having been deregistered twice from the Personal Records Database because she had lived abroad for over six months. The IND declared P's request for a review inadmissible because she had failed to observe the time limit.

The authors claimed that the State party had violated its obligations under the Covenant by refusing to grant them social benefits and preventing them from taking out healthcare insurance. In addition, the authors argued that the authorities had on several occasions provided incomplete and incorrect information. This led, they alleged, to their applications being wrongly denied. The authors also complained that court proceedings were of unreasonably long duration.

On 26 December 2018 the Committee decided to examine the admissibility of the communication separately from its merits. The Committee noted that authors are not obliged to exhaust domestic remedies if there is no chance of success. However, they must exercise due diligence in the pursuit of available remedies. The fact that there are doubts concerning their effectiveness do not absolve authors from the obligation to exhaust such remedies. With regard to registration in the Personal Records Database, it appeared that the authors had not made use of any legal remedies. With regard to their applications for social benefits, the Committee concluded that they had not explained why they were unable to lodge an application for review within the time limits. In addition, the Committee noted that it had received no information showing that the authors had obtained a final decision on the merits

of their claims nor had the authors explained why they were not in a position to obtain such a decision.

In light of the above, the Committee decided that the authors had failed to explain why domestic remedies were unavailable to them or would not lead to an effective resolution of the dispute. The Committee therefore concluded that the authors had failed to exhaust all available domestic remedies and that the communication was inadmissible on these grounds under article 5, paragraph 2 (b) of the Optional Protocol to the Covenant.

Implementation of earlier Views

N.K. (2326/2013, 18 July 2017)
In its Views the Committee concluded that a violation of article 17 of the Covenant had taken place. The case concerned a minor convicted of a criminal offence whose DNA material was collected in order to determine and process her DNA profile. In the Committee's view, the interference in her private life that the collection and storage of DNA material represented was disproportionate, given that the measure was not taken on the basis of a substantiated decision based on individual circumstances, nor was there a legal remedy available against the collection of DNA material. In addition, the author's age was not taken into account.

On 3 April 2018 the State party submitted its initial response to the Committee's Views, explaining that it had taken all necessary individual measures to remedy the violation. On 11 December 2020 the State party provided further information on general measures that had been taken and those envisaged.

First, a bill is in preparation incorporating the amendments to the DNA Testing (Convicted Persons) Act in respect of minors. These amendments were announced by the Minister for Justice and Security in his letter to Parliament of 3 April 2018. Under the bill, the rules on compulsory collection of tissue samples for DNA testing would be amended so that tissue samples would no longer be taken from minors sentenced to an alternative sanction of under 40 hours. In addition, the maximum retention period for the biometric, judicial and criminal data of minors would be halved.

Second, certain developments have taken place in relation to case law on this subject. In this context, the State party informed the Committee of the Supreme Court judgment of 7 April 2020 in cassation proceedings in the interests of the development or uniform interpretation or application of the law. In this judgment the Supreme Court described how courts should proceed, in cases involving minors, with regard to the grounds for exemption set out in section 2 (b) of the DNA Testing (Convicted Persons) Act, under which the public prosecutor is required to refrain from imposing an order for the collection of DNA material. Section 2 (b) concerns cases in which, in view of the exceptional circumstances in which the offence was committed, it is reasonable to assume that determining and processing the DNA profile would not further the prevention, detection, prosecution and punishment of the convicted person's crimes. The Supreme Court held that when a court has to decide on this ground for exemption, it must take the fact that the person is a minor into consideration as an 'exceptional circumstance'.

Finally, the State party pointed out that in light of this Supreme Court judgment, the Public Prosecution Service had established an internal assessment framework for forensic public prosecutors, who decide whether or not to issue an order under the Act. In line with the framework and the Supreme Court judgment, the forensic public prosecutors must take the age of minor offenders into account as an exceptional circumstance. In this context public prosecutors must assess whether such an order would be evidently disproportionate, while at the same time taking account of the risk of reoffending and other circumstances.

S.L. (2362/2014, 18 July 2017)
In this case, as in that of *N.K.*, the Committee held that the State party had violated article 17 of the Covenant by collecting and storing the DNA material of a convicted minor.

On 3 April 2018 the State party submitted its initial response to the Committee's Views, explaining that it had taken all necessary individual measures to remedy the violation. On 11 December 2020 the State party provided further information on general measures that had been taken and those envisaged. These correspond with the measures described in connection with the case of *N.K.*

Committee for the Elimination of Discrimination against Women

Decision

G.M.N.F. (117-2017, 17 February 2020)
The author, a Dutch national, submitted a communication on her own behalf and that of her daughter, who has dual Dutch and US nationality, and her mother, who is a Dutch national. A year after her daughter's birth, the author divorced her husband (her daughter's father) with whom she shared parental responsibility. The daughter lived with the author and there was an access arrangement with the father.

On 5 September 2012 the author and her daughter travelled with the father's consent to the Netherlands for a temporary stay on account of an emergency. For reasons of her own, the author did not wish to return to the US with her daughter. The father petitioned The Hague District Court under the Convention on the Civil Aspects of International Child Abduction (1980) for the return of his daughter to the US. However, the author refused to return her daughter to the US, invoking article 13 (b) of the same Convention. On 25 July 2013 The Hague District Court ruled that the daughter must return to the US. The Hague Appeal Court upheld this judgment on 4 September 2013 and ordered the daughter's return within 72 hours. The author then left the Netherlands for a third country with her daughter, only to return to the Netherlands some weeks later. On 22 April 2014, in accordance with the return order, the daughter was taken by police officers and Child Protection Board staff to Schiphol and handed over to her father with a view to returning to the US. Between 2014 and 2017 the author tried on several occasions to have her daughter returned to the Netherlands. On 1 May 2017 the author learned that the father had died. Temporary guardianship of her daughter had been awarded to the child's uncle (the father's brother).

The author claimed before the Committee that the Dutch authorities took unequal, gender-biased decisions in relation to herself and her daughter. Furthermore, they failed to consider her daughter's best interests as a child, while the courts in the Netherlands and the Child Protection Board failed to acknowledge what the author believed to be clear evidence of child trafficking and child sexual exploitation. By demanding that the author leave the Netherlands, even though she no longer held a valid residence permit for the US, the courts in the Netherlands had attempted to render her stateless. In addition, the author claimed that her daughter's right to be protected was denied and her freedom to live free from domestic violence was restricted. The author invited the Committee to request that the State party provide immediate protection for her daughter and ensure her return from the US.

The State party argued that the communication was inadmissible on three grounds. First the author had submitted the communication partly on behalf of her daughter without having first obtained her daughter's consent. Second, the outcome sought by the author, namely the restoration of contact with her daughter and her daughter's return to the Netherlands, fell outside the jurisdiction of the Kingdom of the Netherlands. To achieve her aims, the author should have availed herself of remedies in the US and not in the Netherlands. In addition, the US is not a party to the Optional Protocol to the Convention. Third, in the opinion of the State party, the communication was manifestly ill-founded since no discrimination on grounds of sex had taken place. If the author had been a man, there would have been no difference in the action taken.

The Committee noted that the author had not made use of all available domestic remedies to challenge the alleged discrimination on grounds of sex. For this reason, it concluded that the communication was inadmissible, under article 4 (1) of the Optional Protocol, for non-exhaustion of domestic remedies. In addition, the Committee recalled that it was the task of the domestic courts to evaluate the facts and evidence or the application of national law in a

particular case, unless it can be established that this evaluation was biased or clearly discriminatory. The author had not provided sufficient information to substantiate her claim in this regard. For this reason, the communication was also inadmissible under article 4, paragraph 2 (c) of the Optional Protocol.

Other developments

Council of Europe[10]

Reform of the ECHR system: evaluation of the Interlaken process

On 4 November 2020 at the 130th session (a video conference) of the Committee of Ministers in Athens, the reforms to the ECHR process adopted during the Interlaken process (2010-2019) were evaluated. The session also marked the 70th anniversary of the European Convention on Human Rights, concluded at Rome on 4 November 1950. In line with the report entitled 'Contribution of the CDDH to the evaluation provided for by the Interlaken Declaration' the Committee of Ministers concluded that a major revision of the ECHR system is not currently necessary. Nevertheless, the Council of Europe as a whole should continue the efforts to ensure that the system can continue to respond effectively to the many challenges facing Europe in the field of human rights, partly through the Court taking an efficient approach to pending cases. The member states were called upon to ensure the effective implementation of the Convention at national level and the fast and effective execution of Court judgments. The Committee of Ministers itself would continue to work towards improving supervision of the execution of judgments. In addition, the Committee of Ministers considered appropriate recognition of the status and service of the Court judges to be important, as well as supplementary safeguards to preserve their independence, including after the end of their mandate. It promised to look into possible improvements in this respect. Furthermore, the current system for selecting and electing judges would be evaluated again before the end of 2024. A report into the process had already been published, in 2018.

Inter-state conflicts and repetitive applications

Earlier in the Interlaken process it emerged that two categories of cases formed a constant challenge to the ECHR system. These are cases arising from inter-state conflicts, which by their very nature tend to be complex, and repetitive cases that overburden the system through sheer numbers. As a result, in 2020 work started in the framework of the Steering Committee for Human Rights on proposals for a more efficient approach to cases that arise from inter-state conflicts (as outlined in the 2018 Copenhagen Declaration) and for better national implementation of the Convention, based on the principle of subsidiarity (set out on the 2012 Brighton Declaration and later incorporated explicitly in Protocol No. 15 to the Convention) and shared responsibility (laid down in the 2015 Brussels Declaration). Although Protocol No. 15 was concluded in 2013, it will not enter into force until the last ratification (Italy) has been received.

Accession of EU to the Convention

After a break of over seven years, the negotiations on the accession of the EU to the Convention resumed in 2020. In its Opinion 2/13 of 18 December 2014, the Court of Justice of the European Union (CJEU) found that the outcome of negotiations reached in 2013 was not compatible with EU law. While taking into account the concerns of the CJEU, the EU continues to work towards accession on terms that will not undermine the effective system of human rights protection developed under the Convention. In this process, the aim is to find sound legal solutions to the CJEU's concerns that are politically feasible for the parties (Brussels and Strasbourg). In 2020 two negotiating rounds took place remotely. Negotiations will be continued in 2021.

European Social Charter (ESC)/Collective complaints procedure

[10] Documents relating to these issues can be found at www.coe.int

In 2020 no new complaints against the Kingdom of the Netherlands were submitted to the European Committee of Social Rights (ECSR) under the ESC collective complaints procedure. The ECSR has now published its report on the collective complaint submitted by University Women of Europe (UWE) (for more details see the summary of the Decision above).

Following the 2019 report entitled 'Identifying good practices and making proposals with a view to improving the implementation of social rights in Europe' the Committee of Ministers decided to request the ECSR to take the following action regarding the collective complaints procedure.

- Find ways of simplifying follow-up reporting in relation to the collective complaints procedure.
- Consider how more predictability can be created with regard to the admissibility of complaints by clarifying the criteria used.
- Reflect on possible changes to the collective complaints procedure, more specifically attaching greater importance to the adversarial principle, strengthening the dialogue between all the parties and the ECSR and providing a broader substantiation of ECSR decisions, with the aim of achieving greater legal certainty.
- Make full use of existing methods of obtaining all the information necessary for the examination of a collective complaint, while fully respecting the adversarial principle. In this context the Committee of Ministers has asked the Governmental Committee of the European Social Charter and the ECSR to reflect on the scope for appointing an ad hoc expert member to the ECSR in a collective complaints procedure if no national of the member state against which the complaint has been lodged has a seat on the ECSR at that time.

Finally, in 2020 the Committee of Ministers elected Dr Miriam Kullmann, the candidate nominated by the Netherlands, as a member of the ECSR for the period from 2021 to 2026.

United Nations

Review of treaty bodies

The treaty bodies examine individual communications under the UN treaties. In 2014 the General Assembly of the United Nations adopted a resolution asking the Secretary-General to review and report back on the status and functioning of the treaty body system within six years. The review was intended to consider matters such as institutional aspects, the procedures of the committees, the quality of their members and the quality of their views and recommendations.

Following this resolution, the Secretary-General has submitted a number of reports on improvements to the system since 2014. Input was provided by many member states, including the Kingdom of the Netherlands, and by other stakeholders. The reports consider individual complaints procedures, in particular the committees' substantial backlogs and the lack of capacity to clear these backlogs. The Secretary-General's recommendations include developing a case management system enabling parties to monitor the progress of individual cases. In 2020 the Secretary-General appointed two co-facilitators to consult with all the stakeholders. In their letter of September 2020, the co-facilitators announced that they had concluded their report and findings. In their view, a follow-up process would be desirable to achieve the goal of enhancing the functioning of the treaty body system. Although the review was expected to conclude in 2020, delays have occurred, partly as a result of the coronavirus pandemic. At the time of writing, no new timeframe for the follow-up process has been published.

Nominations for the Committee on the Elimination of Discrimination against Women

On 9 November 2020 Corinne Dettmeijer-Vermeulen was elected as a member of the Committee for the period from 1 January 2021 to 31 December 2024. She is the first nominee of the Kingdom of the Netherlands to sit on one of the treaty bodies since 31 December 2010, when Professor Cees Flinterman's term of office came to an end.

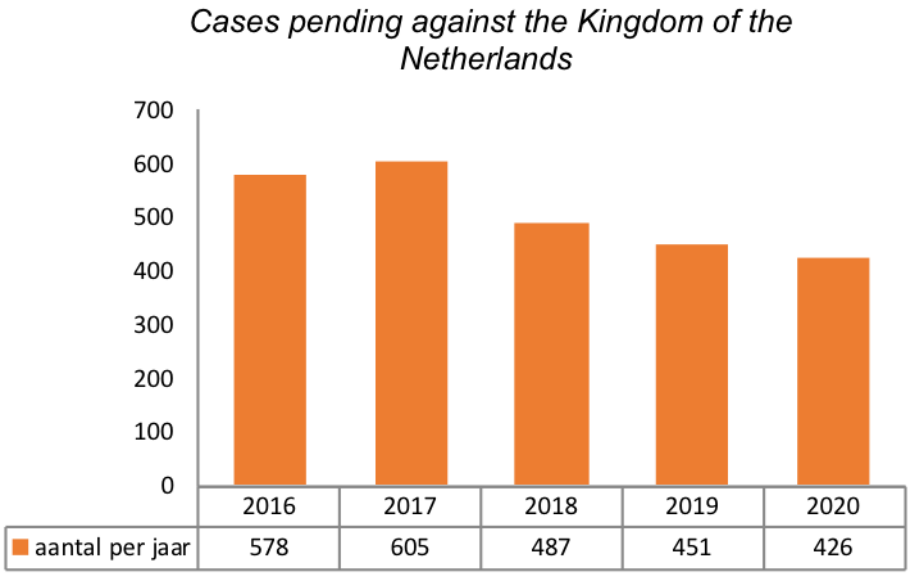
Annexes: overviews and statistics

Annexe I

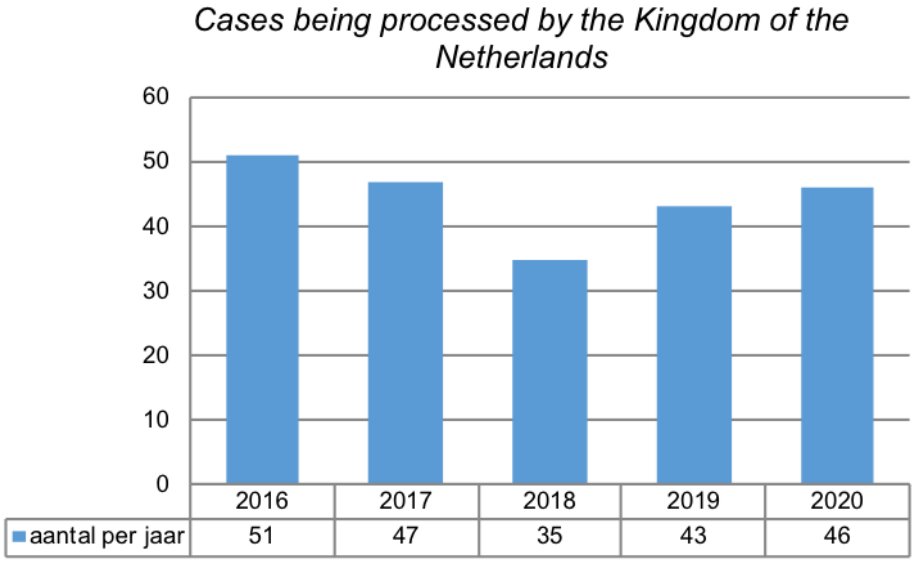
Council of Europe

European Court of Human Rights[11]

Statistics[12]



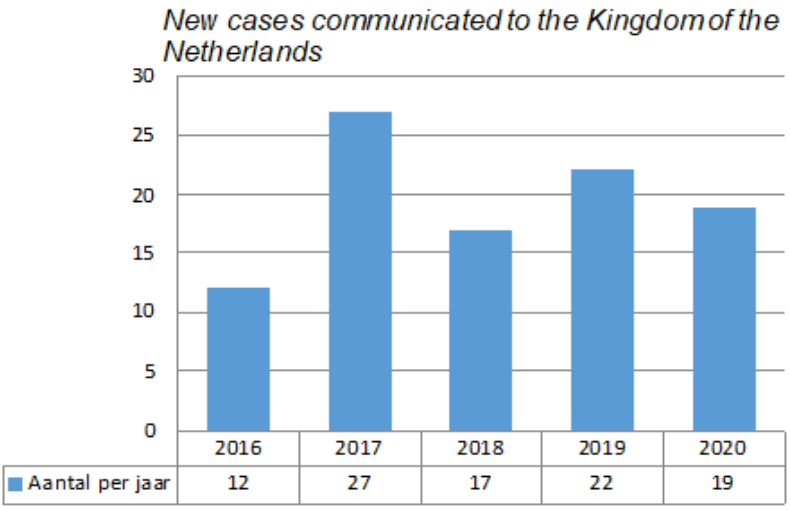
[Annual total]



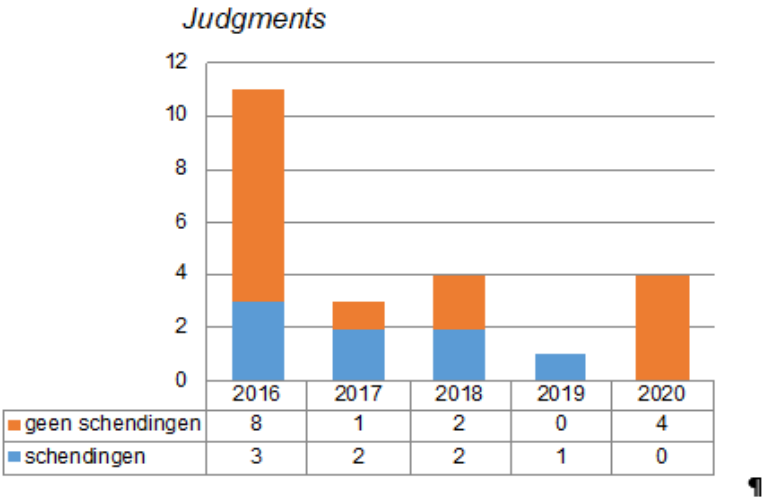
[Annual total]

[11] Statistics for all the member states of the Council of Europe are contained in *Analysis of Statistics 2020,* published by the Court Registry: https://www.echr.coe.int/Pages/home.aspx?p=reports&c

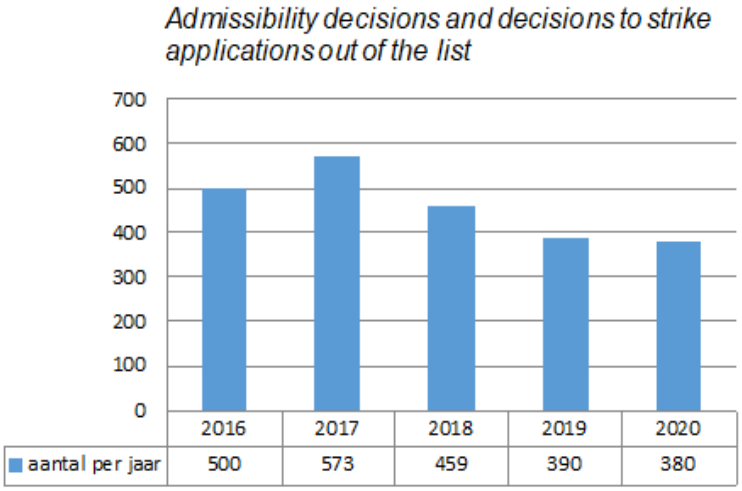
[12] Figures refer to cases against the Kingdom of the Netherlands.



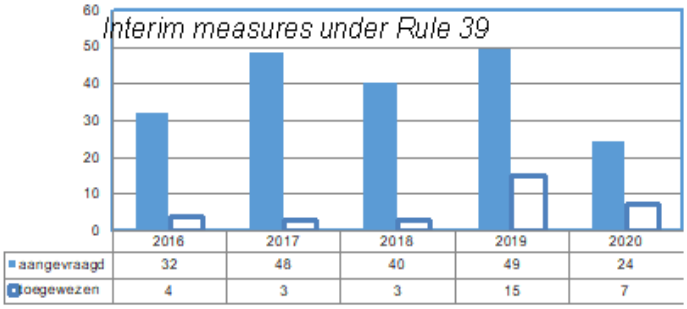
[Annual·total]¶



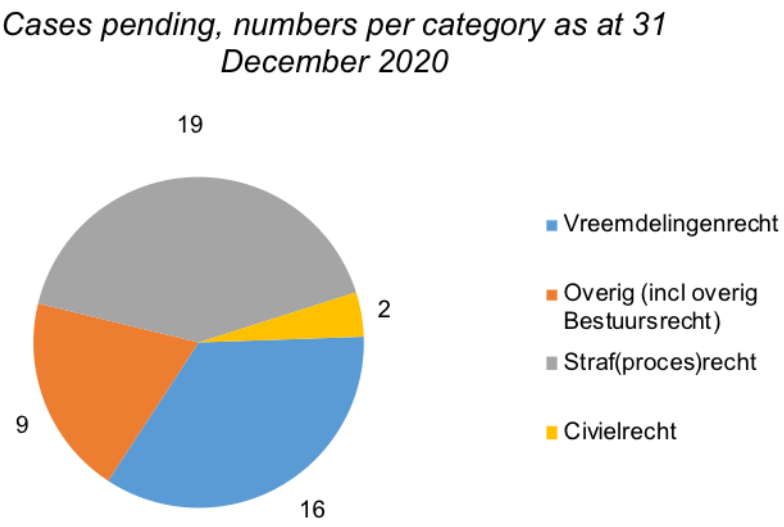
[No·violation¶
Violation]¶



[Annual·total]¶



[Applied·for¶
Granted]¶



[Immigration law

Other (including other administrative law)
Criminal law and criminal procedure law
Civil law]

Judgments and decisions[13]

Judgments

Name	Case number	Date
A.S.N. and T.K.M.[14]	68377/17	25 February 2020
S.S.G. and others	530/18	25 February 2020
S.A.	49773/15	2 June 2020
K.A.	3138/16	2 June 2020
H.P.	25402/14	28 July 2020

Decisions

Name	Case number	Date
Z.H.	45582/18	30 January 2020
I.M.	42533/19	27 February 2020 (*)
Z.N.	71676/14	28 May 2020
R.B. and N.R.	45067/18	3 September 2020
F.O. and others v. Italy and the Netherlands	48125/19	15 October 2020
B.Y.C. and L.M.C.	7338/16	15 October 2020
A.A.	19109/20	26 November 2020 (*)

Decisions against third countries

Name	Case number	Date
M.N. and others v. Belgium	3599/18	5 May 2020

[13] The cases listed here are summarised in the section entitled 'Council of Europe'. Cases marked (*) are single-judge decisions and have therefore not been summarised.
[14] On 25 February 2020, the Court handed down a combined judgment in cases 68377/17 and 530/18.

Cases against the Kingdom being processed as at 31 December 2020

Name	App. No.	Article ECHR
A.A.	31007/20	art. 3
A.A.M.	64534/19	art. 8
A.H.L.	2445/17	art. 3
A.M.A.	23048/19	arts. 3, 5 and 6
A.N.J.	7320/20	art. 3
A.S.	48397/19	arts. 3 and 13
B.H. B.V.	3124/16	art. 8
B.J.	51027/19	arts. 3 and 13
C.D.A.	39371/20	art. 2, 8 and 14
C.H.P.	58403/17	arts. 1, 4, 6, 7 and 8
C.P.	65064/19	arts. 2 and 3
C.V.R.	64133/19	art. 3
E.G.E.	52053/18	arts. 2, 3 and 8
F.E.H.	73329/16	art. 5
F.G.Z.	69491/16	art. 5
F.J.	57264/18	arts. 6, 7, 9, 10 and 11; art. 2 of Prot. No. 4
H.M.H.	71507/16	art. 6
Italmoda and others	16395/18	art. 7
J.d.J.G. B.V. and others	2800/16	art. 8
J.K.	19365/19	arts. 6, 10 and 11
J.S.	56440/15	art. 6
K.D. and others	52334/19	arts. 2, 3, 6 and 13
L.A.D.L.	58342/15	art. 6
M.B.	71008/16	art. 5
M.F.D.	61591/16	art. 6; art. 4 of Prot. No. 7
M.J.	49259/18	arts. 3 and 13
M.M.	10982/15	art. 5
M.Ö.	45036/18	art. 2
M.T.	46595/19	art. 3
N.F.K.	39513/20	art. 8
N.S.S.	45644/18	arts. 6 and 8
O.D.G.	63169/19	art. 3
P.I. B.V.	3205/16	art. 8
P.T.	50389/19	art. 3
R.H.S.N.	585/19	arts. 6 and 13
R.R.C.	21464/15	arts. 3 and 13
S.L.S. and others	19732/17	arts. 6 and 8
S.O.	49596/19	art. 3; art. 4 EU Charter of Fundamental Rights
S.W.O.C. B.V.	2799/16	art. 8
T.K.	298/15	art. 2
T.M. and S.Y.M.	33515/16	arts. 3, 8 and 14
V.A. and others	48062/19	art. 3; art. 4 EU Charter of Fundamental Rights
V.K.	2205/16	art. 6
W.R.	989/18	art. 6
X.	72631/17	art. 6
Y.F.C. and others	21325/19	arts. 3, 5 and 13; art. 4 of Prot. No. 4

Cases against other States Parties being processed as at 31 December 2020[15]

Name	App. No.	Article ECHR
S.A. and others and A. and others v. Russia	25714/16 and 56328/18	arts. 2, 3 and 41
BBW v. UK and Centrum för rättvisa v. Sweden	58170/13 and 35252/08	art. 8
K.J.B. and others v. Russia	22515/14	arts. 5 and 10
H.F. and M.F. v. France	24384/19	arts. 1 and 3; art. 3 of Prot. No. 4
A.S. v. Denmark	57467/15	art. 3
S-V and others v. Russia	26302/10	arts. 2 and 3

Inter-State application lodged by the Kingdom of the Netherlands

Name	App. No.	Article ECHR
Ukraine and the Netherlands v. Russia	8019/16, 43800/14 and 28525/20	arts. 2, 3 and 13

[15] Cases in which the Kingdom has made a third-party intervention or has indicated its intention to do so.

European Committee of Social Rights

Decisions

Name	Complaint No.	Date
UWE	134/2016	28 February 2020

Committee of Ministers

ECtHR cases under supervision as at 31 December 2020

Name	App No.	Date of judgment
J.C.M.	10511/10	26 April 2016
I.Ő.	69810/12	28 June 2016
A.J.H.	30749/12	14 February 2017
H. and K.	70286/14	2 May 2017
F.C.	29593/17	9 October 2018
H.J.C.K.	23192/15	28 May 2019

ECtHR cases where supervision ended in 2020

Name	App. No.	Date of resolution
F.C.	37617/10	4 June 2020

Annexe II

United Nations

General[16]

In 2020 the UN treaty bodies:
- informed the Government of four new communications;
- established Views in one case, in which a violation was found;
- made decisions in three cases.

Human Rights Committee

Views

Name	Comm. No.	Date
D.Z.	2918/2016	28 December 2020

Decisions

Name	Comm. No.	Date
O.T.	2782/2016	13 March 2020
B.P. and P.B.	2974/2017	13 March 2020

Cases being processed as at 31 December 2020

Name	Comm. No.	Article ICCPR
A.D.N.	2894/2016	art. 7
A.G.	3052/2017	arts. 2 and 8
D.J.	3256/2018	art. 14
D.K.	3768/2020	arts. 2, 7 and 8
G.F.S.	3650/2019	arts. 2, 10, 14, 15, 17, 25 and 26
G.R.M.J.	2958/2017	arts. 2, 14 and 25
G.V.B.	3720/2020	arts. 14 and 17
H.J.T.	3004/2017	art. 14
I.A.H.	3725/2020	art. 9
J.O.Z. and E.E.I.Z.	2796/2016	arts. 1, 2, 7, 9 and 24
J.S.	3210/2018	arts. 2, 4, 7, 9 and 10
R.E.I.	3015/2017	arts. 14, 15 and 26
S.E.H.	3236/2018	arts. 12 and 26
S.H. and others	3281/2018	arts. 2, 6, 7, 17, 19, 24 and 26
V.G.	3856/2020	arts. 2, 15 and 26
W.S.J.	3077/2017	arts. 2 and 26

[16] The Views and Decisions listed here are summarised in the section entitled 'United Nations'.

Committee on the Elimination of Discrimination against Women

Decisions

Name	Comm. No.	Date
G.M.N.F	117/2017	17 February 2020

Cases being processed as at 31 December 2020

Name	Comm. No.	Article CEDAW
S.V.	162/2020	art. 16

Committee against Torture

In 2020 no Views or Decisions were published.

Cases being processed as at 31 December 2020

Name	Comm. No.	Article CAT
D.B.	824/2017	art. 3
F.K.M.	954/2019	art. 3
J.T.	991/2020	art. 3
M.K.B.	1008/2020	art. 3
S.R.	834/2017	art. 3
T.S.	896/2018	art. 3