



Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organizations in Geneva

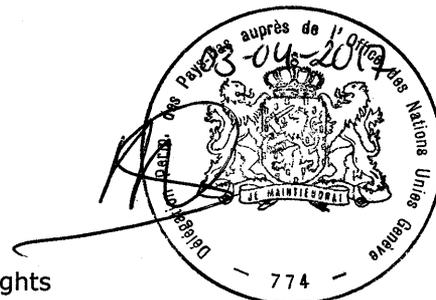
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The Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to send the full response to your questions raised in your letter with reference NLD 3/2016 on the case of Ms Nada Kiswanson, and with reference to our letter of December 2016.

The Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 3 April 2017

Special Rapporteur Mr Michel Forst
Office of the High Commissioner for Human Rights
Palais des Nations
8-14 Avenue de la Paix
CH-1211 Geneva



OHCHR REGISTRY

04 AVR. 2017

Recipients : *SPD*
HR: defender
Enclosure *L. De la Sierra*



MINISTER OF FOREIGN AFFAIRS

Special Rapporteur Mr Michel Forst
Office of the High Commissioner for
Human Rights
GENEVA

The Hague,
23 March 2017

Dear Mr Forst,

Please find below a detailed response to the questions posed in your letter of 29 November 2016. The Dutch authorities will be glad to assist you in any way possible in fulfilling your crucial mandate. Below you will find detailed information on Dutch policy on human rights defenders, the case involving Ms Nada Kiswanson and the measures taken in light of it.

Dutch policy concerning human rights defenders

Firstly, we wish to thank you for your letter. The Netherlands believes it is of the utmost importance to offer human rights defenders a safe environment in which to carry out their vital work. The protection and promotion of human rights is enshrined in the Dutch constitution and is an essential element of our democratic state governed by the rule of law. The Netherlands has an extensive, professional infrastructure of regulations, provisions and institutions that offer a high standard of human rights safeguards. The protection afforded by the rule of law in the Netherlands is provided to all citizens, including human rights defenders.

The 2013 National Action Plan on Human Rights (enclosed) sets out how the government goes about the task of protecting and promoting human rights in the Netherlands; which tangible objectives and priorities the government sets in this regard; and the role that agencies, institutions, and citizens play in protecting and promoting human rights in the Netherlands. With the action plan, the government aims to observe, promote and monitor human rights implementation in the Netherlands more systematically.¹

¹ In 2016 the Netherlands occupied fifth place in the World Justice Project's Rule of Law Index.

Bezuidenhoutseweg 67
P.O. Box 20061
2500 EB The Hague
T +31 70 348 6902
F +31 70 348 5098
E m@minbuza.nl



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Human rights defenders are indispensable for ensuring an open and free society, or a sustainable transition towards one. The Netherlands attaches great importance to this issue, and works, at both national level and through its foreign policy on human rights, to ensure a safe environment for human rights defenders. Dutch foreign policy regarding the protection of human rights defenders is primarily implemented via multilateral forums and is closely aligned with the EU Guidelines on the Protection of Human Rights Defenders. In addition, in 2013 the Dutch Action Plan for Human Rights Defenders was drawn up, with a particular focus on capacity building, innovation and security. The Netherlands is also committed to promoting a safe environment for human rights defenders within its borders. One way of doing this is informing human rights defenders of the agencies that work to ensure their safety, notably the national police and the Public Prosecution Service. The Netherlands will publicly condemn any threats or intimidation that may occur.

Situation of human rights lawyer Ms Kiswanson

Threatening or intimidating human rights defenders in the Netherlands is unacceptable. As a result, Ms Kiswanson's criminal complaint was taken extremely seriously from the outset. Immediately after her complaint was lodged, the police began a criminal investigation focusing on the various threats reported by Ms Kiswanson. Several weeks after the start of the investigation a police liaison officer was assigned to Ms Kiswanson. The investigation is still ongoing. For this reason, and in view of security and privacy considerations, we are unfortunately unable to provide you with any more details of the investigation. Doing so could jeopardise any future criminal proceedings.

In accordance with the Surveillance and Protection System² Ms Kiswanson has been offered protection and assigned a liaison officer for this purpose as well. She has also been given advice on additional measures that she could take to improve her safety. Significant contact has taken place between Ms Kiswanson and the police. She is being represented by a lawyer from a renowned law firm who has arranged for her to be able to consult the police and the Public Prosecution Service at any time. We are unfortunately unable to provide you with more detailed information in order to ensure Ms Kiswanson's safety and that of other people to whom similar security measures apply.

² In the Netherlands the protocol in place for assessing threats and taking measures against them is called the Surveillance and Protection System. In this system measures are generally taken based on information and threat assessments. Measures are not taken pre-emptively based solely on a person's or organisation's profile. Depending on the situation, person or organisation, either the National Coordinator for Security and Counterterrorism (NCTV), the chief public prosecutor's office or the local mayor is the authority responsible for ensuring adequate protective measures are taken. The national police and the intelligence and security agencies implement the decisions taken by the responsible authority. They are responsible for gathering information, performing analyses and advising on and implementing protective measures.



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General measures taken in response to Ms Kiswanson's case

In response to Ms Kiswanson's case, several consultations took place between the Ministry of Security and Justice, the Ministry of Foreign Affairs, the Public Prosecution Service, the national police, the National Coordinator for Security and Counterterrorism and the municipality of The Hague. These consultations not only provided an opportunity to share expertise and information, but also resulted in tangible steps being taken to improve the position of human rights defenders in the Netherlands.

For instance, an overview of steps to take was formulated for NGOs or individuals actively involved with the work of the International Criminal Court (ICC) for use in the event that they are subjected to threats or intimidation. Clear lines of communication between all parties are key in this regard. Once a criminal complaint has been lodged with the police, the Ministry of Foreign Affairs (as representative of the host country) and the ICC can be notified. The Ministry of Foreign Affairs' focal point has provided NGOs with a telephone number that is available 24 hours a day. In addition, the focal point acts as the first point of contact for NGOs linked to the ICC if they have any complaints or general concerns, for instance concerning their security in relation to the ICC's Assembly of States Parties. As host country, the Netherlands has been able to mediate between NGOs and the Assembly's secretariat.

Furthermore, in light of recent developments at the ICC, an analysis was carried out regarding the possible implications for NGOs' security in the Netherlands and the best response in this connection. Together with the ICC, steps are being taken to gain a clearer picture of the NGOs involved in the ICC's work. Ties with these NGOs are being strengthened so that they can all benefit from the security measures in place.

Under article 40 of the ICC headquarters agreement, NGOs, the ICC and the host country form a tripartite consultation mechanism that aims to broadly facilitate the work of NGOs at the ICC. The consultations are not limited to security, but offer the opportunity to discuss other issues obstructing the NGOs' work and issues on which the Netherlands, as host country, can offer support. Since June 2016 three consultative meetings have taken place between the Netherlands as host country, the ICC and the relevant NGOs in light of the case involving Ms Kiswanson. At these meetings, the NGOs made clear the areas in which their vulnerabilities lie and in which they would like support from the ICC and the Netherlands. As regards the digital security of the organisations concerned, they were provided with information on obtaining support free-of-charge via the Digital Defenders Programme. These consultative meetings also resulted in the police and security services briefing NGOs on security in December 2016. The responses to this briefing were very positive.



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The Netherlands continues to devote particular attention to its communication with NGOs based in this country on how to deal with threats or intimidation.

We hope to have provided a sufficient response to your questions. Once again, you are most welcome to pay a visit to the Netherlands to discuss any remaining questions you might have.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Bert Koenders', written over a horizontal line.

Bert Koenders
Minister of Foreign Affairs
of the Kingdom of the Netherlands

A handwritten signature in black ink, appearing to be 'Stef Blok', written over a horizontal line.

Stef Blok
Minister of Security and Justice of
the Kingdom of the Netherlands