



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

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The Permanent Representation of the Kingdom of the Netherlands to the United Nations and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner of Human Rights and, with reference to the concerns expressed by the Working Group of Experts of People of African Descent and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance about a case of alleged racial discrimination in the Dutch welfare system, has the honour to convey the enclosed response.

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

Geneva, 13 September 2019



Office of the High Commissioner for Human Rights  
Palais des Nations  
CH-1211 Geneva 10

OHCHR REGISTRY

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On 20 June 2019, H.E. Mr Sander Dekker, minister for Legal Protection, engaged in a confidential phone call with the Working Group's vice-chair, Ms Dominique Day, in order to address the questions of the Working Group and the Special Rapporteur and explain certain issues in relation to specific details of this case. The Working Group and Special Rapporteur had notified the Government on 4 June 2019 that the father of the family concerned had given his written consent for such a confidential dialogue. The minister invited the Working Group during the phone call to send their remaining questions in a written communication. These questions were received by email on 25 June 2019.

Similar to earlier written communications from the Government on this matter, the Government will not go into details of the individual case in the present communication, in view of the children's best interests. This written communication is therefore limited to those questions that do not involve details about this particular case. To address the other outstanding questions the Government wishes to propose a second confidential conversation with one or more civil servants of the ministry of Justice and Security. The Government proposes to organize such a confidential conversation during the Special Rapporteur's visit to the Netherlands in October 2019.

In question 1, the Working Group requests specific data, disaggregated by race, on cases of family separation, cases where no reunification plan exists, cases without parental or sibling visitation and cases with no educational services to habituate parents to appropriate parenting styles. The Government would like to refer to its letter of 17 April 2019, in which it explained that such data are not available within the Dutch Child Care and Protection Board. The Board does not register cases on the basis of ethnicity or nationality, because every child has the right to equal treatment, and each case needs to be considered on its own merits; hence the use of a case-by-case approach by the Board. In fact, registration of ethnicity or nationality may have a stigmatizing effect. General data concerning child protection differentiating between background are published by Statistics Netherlands (Centraal Bureau voor de Statistiek; CBS)<sup>1</sup>. These were already shared with the Working Group and the Special Rapporteur by the Government's letter of 17 April 2019. Other general data published by Statistics Netherlands concerning the number of child protection measures, such as supervision orders, also show that disaggregation by race is not available. These data reveal the number of initiated child protection measures from 2016 until 2018, the number of measures that were terminated during that period of time and the reasons for termination.<sup>2</sup>

In addition, also data of the Certified Institution are not available. Professionals employed by the Certified Institution, which is responsible for matters such as visitation and support that is offered to parents, work on a case-by-case basis. The extent to which visitation between parents and children can take place depends on several factors; the children's needs are leading in this respect. Sibling visitation takes place as much as possible and, depending on the particular circumstances of a case, such visitation is stimulated. If necessary, parents are offered support regarding effective parenting and understanding the consequences of certain methods of discipline. Such

<sup>1</sup> See CBS Statline, 'Jongeren met jeugdzorg; persoonskenmerken, volume', 31 October 2018, <https://jopenendata.cbs.nl/#/JM/nl/dataset/20247NED/table?ts=1554283655353>.

<sup>2</sup> See CBS Statline, 'Jeugdbeschermingstrajecten', 30 April 2019, <https://opendata.cbs.nl/#/CBS/nl/dataset/82974NED/table?ts=1562919578659>.

support may be a condition for reunification of the children with their parents and if parents do not accept support, it may be ordered by a court. Data on the number of cases in relation to these issues, disaggregated by race, are not available.

Furthermore, the Government wishes to point out that the circumstances that led to the *out-of-home placement* of the children in the case in the present communication do also occur in families without a migration background, and in those families the same measures are adopted, with a view to protecting the children's security and well-being. The Government wishes to emphasize that the measures that were and are taken in the case in the present communication were and are appropriate in the particular context of the family concerned, since they correspond to the needs of the children. The Government would once again emphasize that an *out-of-home placement* is a measure of last resort and is ordered by a court, on the basis of circumstances that are assessed after an investigation by a competent and independent psychologist or orthopedagogue.

Finally with regard to question 1, the Government wishes to reiterate that it is difficult to adequately address the allegation of systemic racial discrimination in the Dutch child protection system, without having access to the information on which this allegation seems to be based. The Government trusts that the Working Group and Special Rapporteur will understand that the requested data are not available precisely with a view to guaranteeing the right to equal treatment and the prevention of stigmatization and repeats its request to the Working Group to share the information available to them. Disclosing the relevant information and sources will enable the Government to adequately respond to the concerns.

With regard to questions 2, 3 and 4, the Government cannot provide a detailed written response, since these questions concern details about the children's situation. Publication of these details would harm the children. However, the Government wishes to reiterate that the allegations brought forward by the Working Group during the phone call with Minister Dekker that no visitation, supervised or otherwise, has taken place since the out-of-home placement, and that no education activities were offered to the parents, are not correct. H.E. Mr Sander Dekker, explicitly mentioned this during the telephone conversation.

In response to question 5, the Government seeks to engage with the family and the UN Special Procedures in a most responsible manner. There is in no way any negative action of reprisal for Mr Kasangaki's outreach to the UN Working Group and Special Rapporteur. As regards the investigation into Mr Kasangaki's residence permit, the Government would explain that every time the Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*, 'IND') receives a request for the granting or extension of an asylum residence permit, the IND investigates whether the conditions for international protection are still met. In order to assess whether someone meets these conditions, the IND may see reason to invite him or her to an interview. Mr Kasangaki was invited to such an interview, which will take place in the near future. The circumstance that Mr Kasangaki has seen reason to reach out to the UN has not played any role in this. As regards the alleged criminal investigation relating to the allegations in this case, the Government wishes to stress that no such investigation was initiated after Mr Kasangaki's outreach to the UN.

The Netherlands holds a standing invitation to the UN Special Procedures and looks forward to welcoming the Special Rapporteur in October 2019. Moreover, the Government wishes to note that the Kingdom of the Netherlands is consistently outspoken against any act of intimidation, retaliation or reprisal that relates to any cooperation with the UN in the field of human rights and regularly expresses their serious concerns regarding all acts of intimidation or reprisal against human rights defenders and investigative journalists seeking to engage or engaging with the UN, its representatives and mechanisms in the field of human rights. In its statements, the Netherlands calls upon all States to take all necessary measures to end, prevent, investigate and ensure accountability for acts of intimidation or reprisal. Obviously, this also applies to the Kingdom of the Netherlands itself and the Government is committed to uphold the highest standards.

With regard to the remainder of the questions, the Government already noted above that these will not be addressed in the present communication since they concern detailed and sensitive information about the children. For that reason the Government would welcome a second confidential conversation, where the other outstanding questions concerning in particular family reunification, visitation and educational support that is offered to the parents can be discussed with the relevant civil servant(s) of the ministry of Justice and Security.