



Kingdom of the Netherlands

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Distinguished Special Rapporteurs,

I have the honour to present the response of the Kingdom of the Netherlands to the joint letter of the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, dated 14 September 2020.

The Special Rapporteurs brought to the attention of the Kingdom of the Netherlands a case of a boat from Venezuela headed to Curaçao which disappeared with alleged victims of trafficking on board in June 2019. They expressed their concern about this particular case and more in general about the existence of consolidated trafficking routes and networks operating.

The apparent disappearance of the boat is of course a human tragedy that the Kingdom of the Netherlands truly laments. For this reason the Dutch Caribbean Coast Guard invested all their available resources to locate the boat with the sole purpose of saving lives, as is explained more in detail below.

The Kingdom of the Netherlands consists of four autonomous countries: the Netherlands – which includes the Caribbean islands Bonaire, Sint Eustatius and Saba - , Aruba, Curaçao and St Maarten. All policy areas are considered to be internal competences of each of the autonomous countries, except for foreign relations and defence which are Kingdom Affairs. Hence, the answers provided below are a combined effort by the respective competent authorities relevant to the different questions posed by the Special Rapporteurs and outlined below.

1. Please provide any additional information and comment you may have on the above-mentioned allegations.

On Monday 10 June 2019 the Dutch Caribbean Coast Guard (DCCG) Joint Rescue Coordination Center (JRCC) at Curaçao was alerted by the Venezuelan Coast Guard in Punto Fijo about the possible sinking of a small boat illegally transporting 32 persons from Punta Aguide, Venezuela to Curaçao. Since no last known position was available all Dutch Caribbean Coast Guard patrols (maritime and airborne) in Curaçao were asked to keep a sharp lookout for this boat or any remains. The JRCC requested their Venezuelan counterpart to keep them up to date if new information would be available.

On 11 June the JRCC received information from two relatives of the missing persons, describing the boat and supposed departure details (Punta Aguide, Venezuela, 7 June around 6 PM with 32 people on board). It was furthermore stated that the boat had initially left with 42 persons, but the captain was concerned about the overload and had returned to disembark 10 passengers. Relatives initiated local search and rescue actions around Punta Aguide when none of the passengers' mobile phone numbers could be reached. The JRCC hence requested the numbers of the sim cards which were from Curaçao, but a check with the telephone companies made clear that no signal had been picked up by any of the cell towers in Curaçao.

Since no boat or remains had been encountered during the look-outs and searches of both the Dutch Caribbean nor Venezuelan Coast Guard, the JRCC subsequently executed a so-called 'voyage SAR plan' (Search and Rescue Plan). This plan establishes the most likely trajectory of the boat and / or human bodies given the planned route, sea currents and winds prevailing at the time, indicating the area where the boat most probably sank to be the east coast of the Paraguana peninsula, Venezuela.

In conclusion, the Dutch Caribbean Coast Guard has done everything within its power to track and trace the boat, but no remains have been found in the Dutch Caribbean Coast Guard Search & Rescue area of responsibility. It is therefore unlikely that the vessel sank in the territorial waters of the Kingdom of the Netherlands.

The competent authorities do not have any evidence to investigate the claim expressed in your letter that several people who are said to have been on board this boat have been abducted and taken to Curaçao by unknown individuals for the purpose of sexual and labour exploitation.

2. Please provide information on measures to strengthen cooperation between Venezuelan judicial authorities and your Excellency's Government in cross-border trafficking cases, including, in particular, in relation to children.

In case of cross-border trafficking cases, the Public Prosecutor's Office can request cooperation of the Venezuelan judicial authorities for the purpose of penal investigations and prosecutions through a formal request for legal assistance. However, in relation to this particular matter no such requests have been transmitted.

3. Please indicate what measures are being taken by your Excellency's Government to combat trafficking in persons and to regulate and monitor private recruitment agencies.

Trafficking in persons is punishable by law in all parts of the Kingdom of the Netherlands. Efforts are being made to enhance public awareness for this serious type of crime and to make the public more aware of the legal consequences. Officials are trained regularly on signalling possible cases of human trafficking by recognizing indicators of human trafficking. Different units and multidisciplinary taskforces specialized in human trafficking and migrant smuggling are operational. Together with special prosecutors they are responsible for combatting trafficking in persons. With regards to recruitment agencies, a recent field study undertaken by Aruba has given indications of possible patterns which are currently under careful revision and used as working information to combat smuggling and trafficking.

4. Please specify what measures are being taken by your Excellency's Government to establish safe and legal migration channels for migrant workers and their families and to ensure that migrants have access to the regular labour market.

The governments of Aruba and Curaçao are committed to provide safe and legal migration channels to migrant workers. Access to the labour market is however coupled to the legal status of the migrant and the requirement that the employer needs a permit as well. To that extent there is legislation and processes in place to ensure fair and equal access to all. Legally registered migrant workers and his/her family have access to the regular labour market, complying with certain criteria.

5. Please provide information on what measures are being taken by your Excellency's Government to prevent trafficking in children for the purposes of labour and sexual exploitation, including in particular, in domestic households and in the hospitality sector, and to ensure effective protection of child victims of trafficking.

Trafficking in humans, including children, is punishable by law in all parts of the Kingdom of the Netherlands. Efforts mentioned under question three also apply to combatting trafficking in children. In the past years, the Public Prosecutor's Office in both Aruba and Curaçao have dealt with several investigations and prosecutions regarding human trafficking and smuggling. In case the victim of trafficking is a child, the penal law states a higher sentence for the perpetrator of the crime.

There have been no reports of children being trafficked for the purpose of labour and / or sexual exploitation. However, recently there has been an instance of some minors were smuggled from Venezuela to Aruba by boat, in the company of their mother, for the purpose of presumed family reunion. In light of this development, the National Coordination Center of Aruba has been conducting recent in-depth discussions on the different processes to adequately improve the effective protection of smuggled children, unaccompanied or accompanied by a parent. To this end special attention is also given to the additional protection needs of minors and to re-establish the commitment of all actors to guarantee the safety and wellbeing of these minors.

6. Please provide information on the identification procedures of victims of trafficking, as well as procedures for ensuring effective access to justice, redress, reintegration and long-term social inclusion measures, including unconditional assistance and rights to residence.

The Public Prosecutor's Office in Curaçao has, in close collaboration with the Ministry of Justice of Curaçao, other relevant (law enforcement) organizations and the International Organization for Migration (IOM) put in place a Standard Operating Procedure (SOP). The aim of SOP is to provide guidance for stakeholders responsible for identifying victims of trafficking in the Kingdom and providing assistance and protection to those victims. The SOP describes the overall process, including specific steps, to ensure that all stakeholders act efficiently and effectively in response to human trafficking and consists of the following phases: identification, protection, assistance, referral, investigation, and return to country of origin. Furthermore, the SOP provides standards to ensure a victim-centered approach throughout the processes. These standards apply to both national and foreign victims of trafficking; women, men, and children.

The victim-centered approach is also present in extensive national and international awareness raising campaigns about human trafficking and migrant smuggling, executed by the Multidisciplinary Taskforce Aruba. This campaign, which is executed in four languages (English, Dutch, Spanish, Papiamentu) aims to prevent and to help identify possible victims of trafficking by a broader range of government officials and citizens. Posters and flyers have been available at embassies abroad, airports, harbours and other government entities. In both Aruba and Curaçao, a hotline has been established for 24 hours, 7 days a week assistance. All government employees in the service of the entities dealing with trafficking in persons have been trained in the recognition of indicators for human trafficking and have been provided a Quick Reference Card with relevant information.

A person that has been identified as a victim of human trafficking will be provided with the necessary assistance like shelter, food, clothing and temporary residency to stay on the islands. If the victim wants to return to her or his country of origin, arrangements will be made to make that possible. If the victim wants to remain in Aruba, the possibility of a long-term permit and job will be assessed according to the legal framework that is applicable. This is not the case for Curacao.

7. Please provide information on existing mechanisms to promote search and rescue operations to render assistance to any person found at sea in danger of being lost.

It is the DCCG's legal task to conduct maritime and aeronautical SAR-operations within the Dutch Caribbean Search and Rescue (SAR)-Region in order to render aid to persons and property in distress. Therefore it has a SAR-organisation in place, including procedures, a command and control infrastructure and designated units that carry out operations.

Cooperation between Venezuela and the Kingdom of the Netherlands in SAR operations is regulated by a "Memorandum of Understanding between the Ministry of Defence of the Kingdom of the Netherlands and the Ministry of Defence of the Republic of Venezuela on the cooperation and coordination in the area of maritime search and rescue", signed in 1997. The MoU reinforces cooperation, coordination, support, and exchange of information in SAR operations between Venezuela and the Kingdom of the Netherlands.

While the task of the Dutch Caribbean Coast Guard lies in safeguarding the maritime borders of the Kingdom, it is also the responsible organization for maritime search and rescue. If lives are at risk at sea, the overriding priority becomes saving those lives. Only once that mission has been accomplished, the matter of the legality of the presence of the rescued persons in Dutch territorial waters will be looked into.

8. Please indicate what measures are being taken to ensure compliance with the obligation of non-refoulement and to ensure that victims of trafficking are not returned to their countries of origin where there is a substantial ground to believe that they would be in danger of trafficking or re-trafficking. Please indicate what measures are taken to ensure that returns of victims of trafficking are safe and preferably voluntary.

A person that has been identified as a victim of human trafficking will, in collaboration with the Coordination Centre on Human Trafficking and Migrant Smuggling and Assistance Bureau (Aruba) or Victim Care Unit (Curaçao), first be provided with necessary assistance to ensure a decent livelihood. Victims receive shelter, food, basic necessities and a temporary residence permit to stay on the islands.

If a victim of human trafficking wishes to return to the country of origin, voluntary return of the victim will be arranged in coordination with the International Organization for Migration (IOM). This organization ensures that the victim receives care and assistance in the country of origin after they have returned. If the victim wants to remain in the Kingdom, the possibility of a long-term permit and job will be assessed according to the local legal framework that is applicable.

He/she furthermore has the option in both Aruba and Curacao to file for protection under Article 3 of the (European) Convention for the Protection of Human Rights and Fundamental Freedoms. Such a petition will be assessed and processed by a special committee of professionals adjudication officers to ensure proper and safe handling of the case. Non-refoulement is observed at all times. In the event a risk as described above is identified all necessary measures will be taken and additional protection will be provided.

9. Please indicate what measures are being taken to ensure that victims of trafficking have effective access to international protection including asylum.

For the duration of a penal investigation, the Prosecutor's Office ensures that victims are treated according to national and international victim protection laws and standards. In this context, the Prosecutor's Office works closely together with all the necessary and relevant stakeholders. Furthermore, the Prosecutor's Office of Curaçao has its own victim care department which is also responsible for the judicial support for victims of ongoing investigations. In Aruba, a similar office falls under the national police force (KPA). Furthermore, Aruba is a signatory to the Convention 1951 relating to the status of refugees via to the 1967 Protocol signed in New York. An asylum and subsequent protection procedure is in place in Aruba. The status determination procedure is open to anyone who seeks protection, including victims of trafficking or smuggling.

The Kingdom of the Netherlands trust that the information provided above answers the questions posed by the Special Rapporteurs in this case.

Yours Sincerely,



Ms. Monique van Daalen
Permanent Representative