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NV: GEV-PA 061/2020

The Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner of Human Rights and, in reference to your letter of December 20th 2019, has the honour to present attached document with the letter on behalf of our State Secretary of Health Welfare and Sport of the Kingdom of the Netherlands.

The Permanent Representation of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.

Geneva, 17 February 2020

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





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United Nations  
Human Rights Special Procedures  
Attn.: Special Rapporteur Ms. Leilani Farha  
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**DG Long-Term Care**  
Social Support Department

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Date 14 February 2020  
Subject Persons living in homelessness

**Our reference**

1650702-202115-DMO

Dear Ms. Farha,

**Your reference**

AL NLD 4/2019

I would like to thank you for your letter of December 20<sup>th</sup> 2019 in which you, in your capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, seek to clarify the information you have received concerning persons living in homelessness in The Netherlands.

*All correspondence addressed to the postal address quoting date and reference of this letter.*

The government of The Netherlands shares your concerns regarding the high number of persons that according to the Central Agency of Statistics are living in homelessness. This agency estimated that the number of persons living in homelessness has more than doubled since its first measurement in 2009. Shortly after the publication of these numbers, the Prime Minister deemed these numbers as unacceptable.

The State Secretary of Health, Welfare and Sport, the State Secretary of Social Affairs and Employment and the Minister of Interior and Kingdom Relations announced, on behalf of the Cabinet, a national plan to substantially reduce the number of persons living in homelessness, in the coming years. This national plan, which is additional to standing national programs combating homelessness, will be presented this spring. In this plan, they will address matters that are important in preventing homelessness, as well as measures that are necessary to solve homelessness in a sustainable way.

In this letter, I will provide requested information on laws, regulations and policy measures (i.e. national programs) that are in place to combat homelessness and to ensure that the rights of persons living in homelessness in The Netherlands are protected. I will also elaborate on the vision supporting the upcoming national plan. A deliberate choice has been made to not further expand local shelters but to implement a housing-led approach.



### **Legal framework**

The right to housing as included in article 11.1 of the International Covenant on Economic, Social and Cultural Rights is guaranteed in article 22 of the Dutch Constitution. According to paragraph 2, it is the concern of the authorities to provide sufficient living accommodation. Sufficient living accommodation has a broad meaning that not only relates to the amount of living accommodations in The Netherlands but also the quality, security and the amount of affordable living accommodations. This best-efforts obligation is implemented in laws and policy, both on the level of the national and the local government.

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In response to your statement that the sharp increase in the number of persons living in homelessness is an indication that the right to adequate housing is not being effectively implemented, I would like to share examples of legislation that support the implementation of the right to adequate housing.

The Dutch government has drafted laws on the quality and security of living accommodations. Ownership of living accommodations is stimulated through tax measures. Specialized independent foundations have been mandated by law to fulfill the obligation of affordable living accommodation. These foundations are financially supported by the government to execute their tasks. People with limited resources are in general eligible to receive financial rent benefits in order to make renting a house more accessible. Laws have also been drafted that can put a cap on rising rental prices in some sectors of the housing market. With support of the government, an independent committee has been installed that can support tenants with conflicts that might arise with their landlords. In some cases, this committee can ultimately lead to a correction of the monthly rental price a landlord is allowed to ask. Municipalities can use tools to assign rental houses to specific vulnerable groups that are in dire need of appropriate accommodation. Forced eviction is not possible in The Netherlands without a verdict of a judge. A general rule of thumb that judges apply is that eviction is not possible until a tenant is three months behind in payment of their rent. This serves as protection for tenants who temporarily are confronted with financial setbacks.

Under the Social Support Act, municipalities are responsible for assisting their most vulnerable citizens, being people who are unable to independently arrange the care and support they need. Under this law, municipalities provide services like sheltered accommodation. The Social Support Act obliges the municipal authority to provide shelter to persons who are located in their municipality. Since 2015, responsibilities and resources to provide social support, youth care and debt repayment assistance have been decentralized. This means that municipalities can provide customized support for people who are unable to fend for themselves.

For example, according to figures gathered by Aedes, a national organisation for the interests of social housing associations, 80% of forced evictions are due to rental debt. Municipalities, through the Municipal Debt Services Act, offer debt repayment services to people in debt. Many municipalities have made agreements with social housing associations to ensure quick action when a person is in trouble due to rental debt. To make sure that this adheres to EU General Data Protection Regulation and to make sure that all municipalities offer services to people in social housing with rental debt, the Cabinet has presented a revised law to parliament.



Under current law, municipalities are already obliged to offer debt repayment services within three working days in case of a threatening situation. The law specifies a forced eviction, the termination of gas, electricity, heating or water supply to a home or the termination of the health insurance as a threatening situation.

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Rules and regulations regarding the use of public spaces are codified in local regulations which are based on the Municipalities Act and usually include, amongst other things, a ban on being a public nuisance, sleeping in a vehicle or tent in a public space, and standing in a gateway or portico without reasonable cause. Municipal by-laws also provide municipalities (i.e. a mayor) the legal opportunity to temporarily ban a person or a group of persons from being present in a particular public space. The police are responsible for enforcing the rules and regulations regarding public spaces, and may fine or arrest a person that is in violation of these rules and regulations. They may (temporarily) confiscate the belongings of a person they have arrested, but are not allowed to destroy these belongings.

#### **Local policies**

In line with the responsibilities as set out in the Social Support Act, local governments have policies in place to prevent and combat homelessness.

In response to your question regarding measures to provide basic shelter and other services, it is important to note that there are several types of shelter made available at a decentralized level to persons who are homeless. For example, night shelters are often, in collaboration with non-governmental organizations such as the Salvation Army, made available by municipalities. These shelters offer a meal and a place to sleep. These shelters are easily accessible, i.e. a homeless person can report to this type of shelter without having to go through an administrative procedure. This type of shelter is short-term which means that persons are provided with a place to sleep for one night only and have to report again the following day in case they want to have shelter for another night. Being 'self-reliant' plays no part in this type of shelter.

Municipalities also provide so-called 'social accommodations'. In these accommodations temporary shelter and care is provided. Social accommodations are not meant to provide shelter alone, but are also aimed at providing social support in order for the person involved to get his life back on track. In deciding if a person has a right to this type of shelter, municipalities have to determine in accordance with the Social Support Act, if a person is 'able to execute the necessary general daily operations of life, and running a structured household', i.e. 'self-reliant'. If a person is considered to be 'self-reliant', access to 'social accommodations' will be denied.

With regard to providing social accommodation for the homeless, the parliamentary history of the Social Support Act and subsequent case law show that there are numerous indicators municipalities can use in order to establish whether a person applying for social accommodation is self-reliant. These indicators are both positive and negative. Positive indicators include having a social network (i.e. relatives and friends), a right to social benefits, education and work experience whilst a negative indicator is the absence of mental health issues. Recently, the Administrative High Court ruled that not being able to speak Dutch or merely not having a home is no reason for not being self-reliant.



In The Netherlands, everyone is equal by law and everyone must be able to act freely and to feel safe. The principle of equality is laid down in Article 1 of our Constitution. In a fair society, a person's origin, gender, belief or orientation should never determine the future and - within limits of the rule of law - a person. Everyone has the freedom to be himself or herself and to live accordingly.

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The services provided under the Social Support Act are available to anyone holding Dutch nationality or to every foreign national with a right of residence. Foreign nationals who are not lawfully residing in The Netherlands can temporarily use the facilities of the Central Agency for the Reception of Asylum Seekers. A long intensive effort is needed to tackle potential discrimination and racism. There is no quick fix; we have a comprehensive, multi-year national programmatic approach in place. The Dutch government is committed to having everyone participate in society.

Under Dutch administrative law, a decision by a municipality to reject a request for social accommodation under the Social Support Act is open to the procedure of official objection, and appeal. Appeals are handled by administrative courts. In addition to the administrative law procedure, a homeless person who has been denied access to night shelter has access to The Netherlands Institute for Human Rights.

### **National programs and monitoring**

The Dutch government has worked with various parties in various ways to reduce the number of homeless people. For example, the State Secretary of Health, Welfare and Sport supports local and regional parties with a Homeless Youth Action Program, which has the ambition to substantially reduce the number of homeless young people and offering integrated support in all areas of life.

Other national programs that are in place are the 2018-2021 National Housing Agenda, the 2018 Multi-Annual Strategy for Protected Housing and Shelter and the 2017 Home Again Action Program. As mentioned before, this spring, the Dutch government will reveal additional measures to be taken. The State Secretary of Health, Welfare and Sport coordinates the efforts in the Cabinet.

In your letter, you imply that the impact of these efforts are generally not strongly monitored and that the Dutch government lacks indicators and a centralized collection of data that could assess the successes of these programs. Besides the aforementioned data that the Central Agency of Statistics provides, we use the 'Municipal Monitor Social Domain'. In this monitor, local governments register outcomes of their responsibilities in providing care and support based on the Participation Act, the Youth Act and the Social Support Act. This includes social assistance benefits and sheltering.

The data from this monitor gives municipalities insight into their performance in the social domain, also in comparison with other municipalities. In terms of performances regarding persons that are homeless, we are currently expanding the indicators with, for example the duration that people on average stay in a shelter and the number of relocation movements people make. These insights can be helpful in the learning process of municipalities and contribute to horizontal accountability (to the municipal council). The monitor also provides the national government with insight at national level. The monitor is updated four times a year.



Various other monitoring instruments are being used to measure the progress being made in combating homelessness. For the housing market specifically, 'the status of the living space distribution' is used and an annual analysis is being made of the performance agreements between municipalities, corporations and tenant organizations.

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Furthermore, Parliament is informed regularly about the progress being made in all these national programs. In the case of the National Housing Agenda, the House of Representatives is informed every six months through a progress report consisting of general points. Parties agreed on reporting on a set of individual measures, separately. The most important indicator of the National Housing Agenda holds the ambition to build 75,000 homes every year. Based on the data that the Central Agency of Statistics provides, a record is kept of the extent to which targets have been achieved.

In the Homeless Youth Action Program, we aim to decrease the total number of young homeless people with 100% in 2021 with fourteen municipalities. These fourteen municipalities (including The Netherlands' four largest cities) hold around 65% of the target group (18-27 years old). The Homeless Youth Action Program has also set itself a substantial reduction target in all other municipalities in The Netherlands. We strongly monitor this specific group and take action on different levels: debt control, youth care and providing sufficient housing.

With regard to protecting the right to health and right to life; being uninsured was one of the main problems. Being uninsured resulted in unpaid healthcare costs for healthcare providers and thus limited access to health care. Since 2017, the 'Subsidy program for medically necessary care for uninsured persons', reimburses medical costs to healthcare providers for aiding uninsured people. As it remained difficult for many health care providers to be reimbursed for costs because of the difficulty to determine a person's insurance obligation, the legislator decided on March 1<sup>st</sup> 2019 (retroactively from March 1<sup>st</sup> 2018) to cancel this insurance obligation.

In addition, this subsidy program makes all forms of health care accessible to uninsured persons who are living in homelessness. Before March 1<sup>st</sup> 2019 this only applied to emergency care. Health care professionals who have aided an uninsured person must now report this to the Association of Regional Public Health Services. This allows the government to map the number of people without insurance and through the Municipal Health Service, to support this group in taking out insurance.

### **National Plan**

The Central Agency of Statistics' research shows that homeless people often have a (very) low income and become homeless from a situation of relative poverty. Many homeless people suffer from debts. More than 40% of homeless people in 2016 had to deal with psychological problems. The relatively large number of homeless people with a migration background is also striking. The Council for Health and Society has been asked to advise on how to tackle homelessness and to provide an 'action agenda' for government and social society for the short and longer term.



Given the figures from the Central Agency of Statistics, and the important factors that require an integral approach to the issue: care and support, housing, financial livelihood, training and guidance to work, the Dutch government decided that, in addition to the afore mentioned national programs, more is needed to reverse this development. That is why the national government will, in cooperation with local parties, present a broad national supplementary plan to substantially reduce the number of homeless people in the coming years. This national plan will focus on providing housing first (or quickly) with guidance and on prevention (incl. preventing stigmatization and relapsing) while taking as much factors as possible into account that have an influence on homelessness such as poverty, debt, social/psychological issues and life-events. It will also address sheltering. If shelter is needed, it has to be of good quality and as short as possible.

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In the announced plan, we want to secure the local autonomy as much as we want to take action on the national level in a more coordinated way than before. There will be concrete measures to monitor the intended policies. For example, a cost-benefit analysis will be made of the measures that local governments will start as part of this comprehensive approach. The result will be a quantitative and qualitative monitoring of efforts.

Our ambition is that nobody sleeps on the street, against his or her will. Every homeless person should have his or her own living space with guidance available as quickly as possible. Social accommodation is available but only if there is no other option and ideally never longer than three months. Having your own place of residence is the most important step to recovery. Finland shows us that they have dropped the number of chronically homeless people has by 86% in the years 2008-2017 by applying the Housing First principle.

We have asked regional municipalities to send in a plan adhering to this prevention, housing-led and integral approach. We are currently analyzing these plans and we will integrate them in the national plan. Part of this plan is a housing strategy for homeless people who primarily have a housing need and no additional (psychological or social-emotional) problems.

The Minister of Interior and Kingdom Relations has made a € 2 billion investment in the housing market, including a stimulation approach for "flexible living". The homeless are part of the group of urgent seekers in the housing market. To stimulate the construction of temporary and flexible homes for urgent seekers, the Cabinet has started a "flexible living" approach. Part of this are, among other things, an exemption from the landlord's levy, an extension of the period in which deviations can be made from the destination to a maximum of 15 years, making exploitation more profitable, and regional acceleration chambers where, gradually, a feasible and supported flex-living concept will be developed.

One of the most important ways to prevent homelessness it to prevent people from losing their home. The national plan will therefore also address evictions. In the last 5 years, the number of forced evictions have dropped steadily from 6,980 in 2013 to 3,000 in 2018 (there is no reliable data for the total number of evictions in private housing and recreational parks). This decrease is, among other things, the result of efforts made by housing corporations. For example, housing corporations try to prevent rental debts from becoming problematic by talking to tenants about their problematic payment discipline.



If a housing corporation nevertheless goes to court, the court will make a very careful assessment of whether eviction may be carried out. And even after a ruling for a legal eviction is obtained, housing corporations often try to prevent eviction and offer debt paying assistance. As a result, only a quarter of all judgments actually lead to house evictions.

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Social Support Department

**In closing**

I trust to have provided you with sufficient information to conclude that combating homelessness is a serious topic in The Netherlands that has the deepest concern and commitment of its government.

Yours sincerely,  
On behalf of  
The State Secretary of Health Welfare and Sport,

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

Mr. J.A. Vermeer  
The Deputy Director Social Support