



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

REF: GEV-MR 107/2023

The Permanent Mission of the Kingdom of the Netherlands to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint appeal of April 28, 2023 (**ref. UA NLD 1/2023**) of the 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; the Working Group on Arbitrary Detention; the Working Group on the issue of human rights and transnational corporation and other business enterprises; the Special Rapporteur on extrajudicial, summary or arbitrary executions; The Special rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of Human rights and fundamental freedoms while countering terrorism, has the honor to send the enclosed response of the Netherlands to the Office.

The Permanent Mission of the Kingdom of the Netherlands to the United Nations and other international organizations in Geneva avails itself of the opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.

Geneva, 26 June 2023



Office of the High Commissioner for Human Rights
ohchr-registry@un.org

Response of the Netherlands to the letter from OHCHR with reference UA NLD 1/2023

Question 1: Please provide additional information and/or comments you may have on the above-mentioned allegations.

The government of the Netherlands responds as follows to the Joint Urgent Appeal of 28 April 2023 by the 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; the Working Group on Arbitrary Detention; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.

The government takes seriously the allegations and investigations presented in the above-mentioned letter. The topics addressed by the Special Rapporteurs, including forced evictions, allegations of torture and ill-treatment, the imposition of death sentences and threats of execution are an integral part of the dialogue on human rights between the Kingdom of the Netherlands and the Kingdom of Saudi Arabia. The Netherlands is the only individual country that engages in structural human rights dialogue with the Kingdom of Saudi Arabia (the EU does so as a bloc). This dialogue enables the government of the Netherlands to express its concerns regarding land expropriation and other issues, topics which it raises regularly in bilateral discussions, at EU level and together with like-minded countries. The government of the Netherlands shares the Special Rapporteurs' concerns about planned executions. The Netherlands and the EU oppose capital punishment unreservedly, and both continually state this position in meetings with Saudi authorities, for example during the visit of Minister of Foreign Affairs Wopke Hoekstra to Saudi Arabia in April 2023 and the visit of the President of the Human Rights Commission to the Netherlands in May 2023.

The government of the Netherlands will continue to raise these topics in its ongoing critical dialogue on human rights with the Kingdom of Saudi Arabia, both bilaterally and multilaterally through the EU and in appropriate forums.

Question 2: Please highlight the steps that your Excellency's Government has taken or is considering to take, in relation to this project, to protect against human rights abuse by business enterprises domiciled in the Netherlands and its territories and/or within its jurisdiction, such as Van Berkel en Bos U.N. Studio B.V. Please provide information on what measures your Excellency's Government has taken to ensure that such business enterprises conduct effective human rights due diligence. Such a process allows companies to identify, prevent, mitigate and account for how they address their impacts on human rights (as per Guiding Principles on Business and Human Rights 17-21) and its helps to ensure that human rights defenders can operate in a safe and enabling environment, free from restrictions and attacks.

The government of the Netherlands expects all Dutch enterprises to align their business practices with the OECD's Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations' Guiding Principles on Business and Human Rights. These guidelines and principles require businesses to identify and address risks in their international value chains.

Dutch policy on responsible business conduct (RBC) consists of a mix of mutually reinforcing measures that are together intended to bring about effective behavioural change in enterprises. Apart from setting conditions, incentivising, facilitating and informing, another element of RBC policy is establishing a broad due diligence obligation for businesses, preferably at European level. The government of the Netherlands supports Dutch businesses in the due diligence process in multiple ways (for the Netherlands' broad policy and measures for facilitating RBC, please see answers to question 3 and 4).

The Dutch government's support for Dutch businesses in Saudi Arabia focuses on sustainable economic opportunities in areas such as the green energy transition, sustainable food production, the circular economy and the life sciences and health sector. This is in line with the policies set out in the government's policy document for Foreign Trade and Development Cooperation, which identifies the Gulf region (including Saudi Arabia) as a priority region for foreign trade¹. The

¹ <https://www.government.nl/documents/policy-notes/2022/10/10/policy-document-for-foreign-trade-and-development-cooperation-do-what-we-do-best>

government of the Netherlands underscores the importance of due diligence for every sector and project, including attention for human rights. For instance, embassies' advice to businesses regarding the local context also covers the potential impact of projects on human rights and refers businesses to relevant information. Likewise, during trade missions the [Netherlands Enterprise Agency](#) actively emphasises the importance of RBC both in Saudi Arabia and in the [wider Gulf region](#).

The Dutch company Van Berkel en Bos U.N. Studio B.V. was contacted following receipt of the above-mentioned letter and since indicated that it has issued its own formal response to the OHCHR.

RBC is an integral element of Dutch economic diplomacy throughout the Gulf region, and therefore an ongoing topic of discussion in bilateral relations between the Netherlands and Saudi Arabia. For example, our embassy has discussed RBC with representatives of the NEOM project, and the importance of due diligence was on the agenda during the visit of Saudi Arabia's Undersecretary of Trade to the Netherlands in May 2022.

The multifaceted relationship between the Netherlands and Saudi Arabia affords various opportunities for addressing human rights concerns. In bilateral talks, through the EU and in relevant multilateral forums, the Netherlands consistently draws attention to human rights in Saudi Arabia.

Question 3: Please describe any guidance that your Excellency's Government has provided to domiciled business enterprises on respecting human rights throughout their operations in line with the UN Guiding Principles, including by setting out the Government's expectations as to how human rights due diligence should be conducted, how to consult meaningfully potentially affected stakeholders, and how to remedy any negative human rights impacts. Please also indicate whether any guidance was provided with respect to the duty to obtain free, prior and informed consent of indigenous peoples prior to the approval of business activities affecting their land use.

The Dutch government expects Dutch enterprises to respect human rights wherever they do business. It also expects them to conduct due diligence in line with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights. This includes engaging in meaningful stakeholder consultation and providing remedy where applicable. The government of the Netherlands drew up its first National Action Plan on Business and Human Rights in 2014 and revised it in 2022 (for more information, please see the answer to question 4).

In accordance with its coalition agreement, the government will continue to promote RBC legislation in the EU (the Corporate Sustainability Reporting Directive and Corporate Sustainability Due Diligence Directive) and will enact national RBC legislation that takes into account a level playing field with neighbouring countries and the implementation of any EU legislation in this area.

Dutch RBC policy consists of a smart mix of measures to foster business respect for human rights. Measures include an RBC support centre serving as a 'one-stop shop' for businesses that wish – or are required – to adopt RBC principles, financial incentives for sectoral cooperation on RBC, and the setting of RBC conditions for businesses that request government support or take part in public procurement processes. The government's intention is that these measures, along with legislation, will sufficiently motivate businesses to adopt effective RBC.

Question 4: Please indicate the steps that your Excellency's Government has taken or is considering to take, to ensure that business enterprises domiciled in your territory and/or jurisdiction establish or participate in effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.

The government of the Netherlands promotes RBC in a variety of ways. In 2022 it published a revised National Action Plan on Business and Human Rights, describing actions grouped according to three pillars of the UN's Guiding Principles for Business and Human Rights: the duty to protect, the responsibility to respect and access to remedy.

Ideally, human rights abuses, including violations of labour rights, should be addressed where they take place and effective remedy offered locally. A mechanism in the Netherlands may be preferred in some cases, for example when there is no effective local mechanism or when a Dutch enterprise

is involved in the violation. The revised National Action Plan on Business and Human Rights² describes the actions the Dutch government will take to ensure access to remedy, including publishing information about existing mechanisms and how they work and what support is available for accessing them.

More concretely, an important element of the third pillar of the National Action Plan is the development and active dissemination of an accessible, multilingual digital guide for rights-holders, which is intended to clarify options for access to remedy in the Netherlands.

To promote RBC in the second pillar, the government applies the policy mix of mutually reinforcing measures as described above. Through the voluntary policy measures, the government promotes compliance with the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the United Nations Guiding Principles on Business and Human Rights, including their provisions on grievance mechanisms. Under the sectoral RBC agreements that the government has concluded with eleven sectors since 2016, several participating companies have committed to setting up or participating in grievance mechanisms. Grievance mechanisms are also part of the EU Council's position and the European Parliament's position on due diligence.

The Dutch government recognises the need for action to address human rights violations committed by or with the involvement of Dutch companies and to offer victims access to remedy when such violations occur. Protecting human rights defenders and protecting the rights of indigenous peoples are elements of the due diligence methodology that the policy mix aims to promote, in accordance with the above-mentioned international standards.

² <https://www.government.nl/documents/publications/2022/11/8/national-action-plan-business-and-human-rights>