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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF THE NETHERLANDS
ON THE SECOND OPINION OF THE ADVISORY COMMITTEE ON
THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES
BY THE NETHERLANDS**

(received on 20 December 2013)

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1. Introduction

On 20 June 2013, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities adopted its opinion concerning the Netherlands. The Advisory Committee monitors compliance with the Framework Convention for the Protection of National Minorities. Pursuant to the prescribed procedure, the Netherlands Cabinet of Ministers was invited to comment on this. This document contains the Cabinet's comments with regard to the opinion.

It is with great interest that the Netherlands Cabinet of Ministers has taken note of the Council of Europe's work in respect of monitoring the Framework Convention. The Cabinet welcomes the Advisory Committee's report and the compliments expressed therein concerning efforts made to protect national minorities and combat discrimination.

The Netherlands Cabinet of Ministers intends to discuss in more detail below what it considers to be the most significant points. This will include the positive developments, the areas for attention and the recommendations. Although we have not responded to every one of the Advisory Committee's observations, this does not alter the fact that we have taken heed of them and will be incorporating them in the Netherlands government's policy making where possible.

To provide the Council of Europe with the optimum and most comprehensive picture possible of the current situation, we should like to use this opportunity in order to supplement some components with the most recent state of affairs. Further to this, a report *and* Cabinet comments on a contiguous topic have now appeared and can be drawn into the present monitoring cycle in relation to the Framework Convention for the Protection of National Minorities.¹

When drafting these comments, the Cabinet has followed wherever possible the Advisory Committee's order by topic.

¹ This relates to a report by the European Commission against Racism and Intolerance (ECRI) and the Cabinet's comments in that regard. While this covers in essence a different field of activity on the part of the Council of Europe, it is evident that there is some overlap in certain areas. To furnish the most complete and up-to-date picture possible, reference will be made from time to time to the Cabinet's comments in respect of the ECRI report. The Cabinet's comments, the memorandum to the House of Representatives and the ECRI-report have been published here: <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/11/18/kamerbrief-met-kabinetsreactie-ecri-rapport-nederland-rassendiscriminatie.html>
<http://www.coe.int/t/dqhl/monitoring/ecri/Country-by-country/Netherlands/NLD-CbC-IV-2013-039-NLD.pdf>.

2. Monitoring process

The Advisory Committee recommends and requests that its opinion be published and made publicly available at the earliest opportunity. The Netherlands Cabinet of Ministers subscribes to the Advisory Committee's goal in exercising prompt and optimum transparency and so by that means open up information to the public.

The Advisory Committee's opinion has been translated into Dutch and Frisian as quickly as possible. The Frisian and Dutch translations of the opinion have been furnished to the province of Fryslân and to the Advisory Body for Matters pertaining to Frisian Language Policy, the advisory body to the Minister of the Interior and Kingdom Relations (BZK). The Advisory Committee's opinion and the Netherlands Cabinet of Minister's comments will be published on the central government website in all three languages. This will take place when the House of Representatives has been notified about the Advisory Committee's opinion and the Cabinet's comments in that regard.

Transparency will be discharged by this means, while simultaneously fulfilling the wishes of the Advisory Committee to the greatest possible extent.

3. Policy in respect of the Frisians, their language and culture

Frisians as a national minority under the Framework Convention

The Netherlands Cabinet of Ministers has considered Frisians to be a national minority under the terms of the Framework Convention. When approving the bill for the ratification of this convention, the government and parliament agreed that the Framework Convention would apply only to Frisians in the Netherlands.² Views on that point have not changed.

In light of the above, it is only logical that the State Report submitted by the Netherlands in September 2012 to the Council of Europe first and foremost examines the group regarded as a national minority under the Framework Convention. The report provides a picture of the Frisians' position and the measures taken to protect and promote that position. The Netherlands Cabinet is pleased to state that a positive image has emerged from the Advisory Committee's opinion concerning the efforts made to develop policy in favour of the Frisian language and culture. In the interim, there have been some recent developments to report in addition to the information already furnished to the Advisory Committee.

General and institutional regulatory framework

The Netherlands welcomes the Advisory Committee's observations in respect of the significant advances that have been made vis-à-vis protecting Frisians and the Frisian language. Supplementary to the Advisory Committee's report, it can be stated further that the Use of Frisian Act was passed on 1 October 2013 by the Senate of the States General (Dutch parliament). Parliament voted unanimously to side with the bill, which may be taken as a sign of a major base of support for giving equal rights to the Frisian language as those given to Dutch in the province of Fryslân. The observation by the Advisory Committee that this is an incentive towards the use of Frisian in the administrative and judicial sphere is one endorsed by the Cabinet. The Act comes into force on 1 January 2014. The Act provides for the foundation of a Frisian Language Body. This Frisian Language Body is to report, make recommendations, make observations and enter subjects on the agenda in respect of Frisian. Central government and the province of Fryslân are working in unison to install the Frisian Language Body and to ensure it is in an optimum position to fulfil its role.

Administrative layout of and within the province of Fryslân

Municipal upscaling

As was also under discussion during the Advisory Committee's visit in March 2013, the administrative layout of the province of Fryslân will be changing as of 1 January 2014 by means of the merger of municipalities and adjustments to municipal boundaries. To safeguard against the linguistic rights of the Frisians concerned taking a turn for the worse following these changes, a Frisian Language Policy administrative agreement was concluded on 4 November 2013 between central government, the province of Fryslân and the relevant municipalities. This agreement was compiled in Frisian as well as in Dutch, and both versions have been published.

The conclusion of administrative agreements has become standard policy in relation to the merger of municipalities in the province of Fryslân. The content of the administrative agreements is agreed following negotiations between the Ministry of the Interior and Kingdom Relations, the province and the municipalities concerned. The content of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages are among the considerations taken into account, acting as points of departure for such administrative agreements.

It is stated on page 21 of the Opinion that the use of Frisian as a mother tongue is decreasing given that the number of Frisian-speaking citizens has decreased as a result of the redrawing of boundaries. The Cabinet wishes to make a marginal note in regard to that observation. Should a municipality with many Frisian speakers merge with a municipality with few Frisian speakers, the percentage of Frisian-speaking citizens in that municipality may indeed decrease; however, it goes without saying that the percentage will be higher than it was formerly in the municipality where little Frisian was spoken pre-merger.

² The Framework Convention for the Protection of National Minorities came into force in the Netherlands on 1 June 2005.

Provincial upscaling

The provinces of Flevoland, North Holland and Utrecht are to be merged in this cabinet period. Long term, alongside the merger of these three provinces, the Cabinet has in mind an ultimate scenario that also includes the other parts of the country with regard to provinces that in terms of scale coincide as closely as possible concerning their tasks and challenges. Ideally, the process required for arriving at these 'new style provinces' needs to have its form and content come from the bottom up. The Cabinet will be conducting transparent talks with the provinces, including Fryslân, concerning the specifics of this ultimate scenario. The Cabinet will not be advancing a blueprint for the redrawing of new provinces. Consequently, the Cabinet has no detailed plans either for any provincial upscaling in relation to the province of Fryslân.

Should the initiative arise from the bottom up for achieving a provincial merger in which the province of Fryslân were to be involved, a sufficient social base of support for this would have to be in evidence. It goes without saying that an administrative merger would always have to take place that does justice to the protected position of Frisians, their language and culture under the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

The Frisian language in the media

The situation in relation to the position of Omrop Fryslân [the regional public broadcaster for the province of Fryslân] was expressed aptly by the Advisory Committee. The points below can be taken as supplementary to this.

Debate has now been held in the House of Representatives concerning the cut-backs to regional broadcasters' budgets as announced in the Coalition Agreement. An 'intensification' [increase] of the media budget by \$50 million as of 1 January 2016 was reached in the 'budget agreement'. A motion was passed in this debate concerning the division of this intensification in which the State Secretary of Education, Culture and Science was asked to divide this sum between the regional and national public broadcasters: €8 million for regional public broadcasting and €42 million for national public broadcasting.

As a result of this, cut-backs to the total budget for regional broadcasting – including Omrop Fryslân – will be €17 million as of 1 January 2017. That is €8 million less than originally forecast. This is also one year later than had been envisaged initially in the Coalition Agreement. A decrease in resources for the regional broadcasters – and thus also for Omrop Fryslân – is unavoidable in view of the present economic circumstances in the Netherlands. The State Secretary of OCW has personally requested of the regional broadcasters that they submit a plan that sets out how they intend to partition the revised budget and takes the premise that such a plan will also include the situation specific to Fryslân. In the spring of 2014, the Council for Culture will also be making its recommendations on the future of the public media system.

It is also anticipated that the regional and national public broadcasters will be submitting a joint plan concerning the shape that the announced integration could take. Cabinet plans will be developed in more detail subsequent to this. The recommendations of the Hoekstra Committee³ concerning the necessity for Frisian-language media *and* specific policy to make such programming possible will be entailed in this process. The function which is fulfilled by Omrop Fryslân, being the provision of Frisian-language programming, is not under debate.

It is clear that these developments will not have consequences for Omrop Fryslân during the reign of this Cabinet. Furthermore, the concessionary period for Omrop Fryslân, which terminated at the end of 2013 and to which reference was made in the Opinion, has now been renewed for five years. This ensures that Omrop Fryslân will remain the designated regional media institution for the province of Fryslân in that period and that it will receive an appropriate budget for this.

At the provincial level, the province of Fryslân has set up a Frisian Media Fund to promote innovations in both the media and investigative journalism in Fryslân. Annually, up to and including 2015, € 100,000 will be at the disposal of Frisian-language media.

³ Advisory Report of the Interim Committee for Safeguarding the Frisian Language in the Media (Hoekstra Committee). An English translation of this Report has been supplied to the Advisory Committee within the monitoring process. A Dutch version of the report can be viewed here: <http://www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/02/01/adviesrapport-tijdelijke-commissie-borjinq-friese-taal-in-de-media.html>

Frisian-language education

The quality of education in general and that of education in Frisian in particular is naturally a matter of concern for the Cabinet. All the more so given that the command of language is a precondition for being able to participate and function fully in society. For that reason, the Cabinet is making additional annual investments in Frisian-language education.⁴

For the continued existence of the Frisian language it is essential that Frisian children learn the language properly. Frisian-speaking parents feel this to be very important. Frisian is a mandatory subject in most primary schools in Fryslân. With that in mind, the Netherlands Cabinet of Ministers finds it hard to juxtapose this with the findings of the Advisory Committee that Frisian is a mandatory subject only in a limited number of schools.

The Cabinet understands the concerns present among the Frisian community regarding the lack of qualified teachers. The Education Inspectorate has observed that some 40% of teachers in primary and secondary education do not possess an appropriate qualification or competence in relation to teaching the subject of Frisian language and culture. Therefore, the efforts of central government and the province are focussing on multiplying the number of qualified teachers within the course of the Administrative Agreement for Frisian Language and Culture 2013-2018.⁵

To that end, the Ministry of Education, Culture and Science has agreed with the province that Fryslân will be making efforts in the immediate future to reinforce the support base for Frisian among schools and teachers. The government has laid down the core objectives for the subject of Frisian in a general administrative order (AMvB). The province of Fryslân wishes to have that power for itself. The province stands for the quality of Frisian uniquely among all other provinces.

Strengthening the province's position may thus contribute towards the quality of the subject of Frisian. For that reason, the Cabinet has submitted a bill before parliament providing that the core objectives for Frisian be laid down by the province subject to certain conditions. This is intended to improve the quality of Frisian-language education. On the one hand this is because its management will be placed with experts who have an overview of the field from close at hand and, on the other, because this will make possible a more customised approach at individual schools (for example, following the bill's entry into force, a partial exemption will be possible instead of solely a universal exemption).

Central government, the province and the educational sector will continue to work in close alliance to improve Frisian education. Education is a pre-eminent example of a subject on which the new Frisian Language Body can report and provide recommendations.

⁴ Administrative Agreement for Frisian Language and Culture 2013-2018. An English translation of this Administrative Agreement has been supplied within the monitoring process. A Dutch version of the Administrative Agreement can be viewed here: <http://www.rijksoverheid.nl/documenten-en-publicaties/convenanten/2013/04/16/bestuursafpraak-friese-taal-en-cultuur-2013.html>

⁵ Administrative Agreement for Frisian Language and Culture 2013-2018, Chapter 2: Education.

4. Combatting discrimination and intolerance

Combatting discrimination

The Advisory Committee states in its Opinion that the legal and institutional framework in the Netherlands protecting against discrimination has been reinforced since the previous monitoring cycle. This is heartily endorsed by the Cabinet. The protection of national minorities, minority groups and countering discrimination against them is, of course, an on-going process. The constant focus of the Cabinet's efforts is to achieve improvements in that regard and at this time the Cabinet is pleased to be able to report that further positive advances have been made since the publication of the Advisory Committee's report.

This is expressed in part in the ECRI report and the comments of the Cabinet within the context of the fourth monitoring cycle.⁶ Positive developments are set out within this, such as establishment of the network of municipal anti-discrimination facilities (ADVs) and further specialisation in relation to discrimination and racism within the police and Public Prosecutions Department. The ECRI report also expresses its appreciation for the foundation of the Roma platform, within which municipalities pool their knowledge and expertise, and the foundation of the Board of Human Rights.

The aforementioned networks and institutions can have an important role to play in combatting discrimination and intolerance and in promoting human rights by means of education in the form of, for example, knowledge sharing and action focussed specifically on consciousness raising. In this manner the by this means to information/education concerning human rights. The Cabinet is investing in this with the objective of driving back discrimination.

Within that context, it is noted that ECRI, like the Advisory Committee, has made recommendations that the subject of human rights be made part of the educational programme on citizenship and social integration. This would be intended as a first step towards a separate, mandatory subject of 'human rights', including non-discrimination, in both primary and secondary schools. In response to this recommendation, it has been declared that before the end of this year the State Secretary for Education, Culture and Science will be sending his comments to the House of Representatives in response to the Education Council's Advisory Report '*Verder met burgerschap*' ['Going forward with citizenship']. Included among the Education Council's recommendations are adjustments to a number of core objectives for primary and secondary education that relate to citizenship. In his response to these recommendations, the State Secretary will also be looking at the proposal to assign human rights (including children's rights) to the core objectives.⁷

In December 2013, the annual "discrimination memorandum" will be sent to the House of Representatives. This memorandum reports to parliament on the measures taken to combat discrimination and intolerance. It also outlines a current picture of developments relating to the protection of human rights. In addition, the Cabinet is working on execution of the National Human Rights Action Plan, which the Cabinet issued and sent to the House of Representatives on 10 December 2013. That Action Plan sets out the way in which the Cabinet is interpreting its duty to protect and promote human rights in the Netherlands. Specific objectives and priorities are set within this and the role that other bodies, institutions and citizens play in achieving human rights in the Netherlands are also entailed. It is intended by this means to further monitor and promote the implementation of human rights in the Netherlands. The express focus within this is how discrimination is tackled.

⁶ ECRI report on the Netherlands, European Commission against Racism and Intolerance, 15 October 2013. This relates to a report within the context of the fourth monitoring cycle against Racism and Intolerance:

<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Netherlands/NLD-CbC-IV-2013-039-NLD.pdf>

⁷ Appendix to the memorandum "Cabinet response to the ECRI report on the Netherlands and Racial Discrimination" submitted to the House of Representatives on 18 November 2013, no. 234 on page 16. <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/11/18/kamerbrief-met-kabinetsreactie-ecri-rapport-nederland-rassendiscriminatie.html>

Readiness of minority groups to report discrimination

The Advisory Committee pointed out that few matters are being taken before anti-discrimination bodies by people belonging to a minority group. Whether people report to bodies when they are discriminated against or when they feel discriminated against is a matter primarily for them. However, the government can ensure, of course, that citizens are aware of the authorised bodies' existence, that accessing such bodies is as easy as possible and that these bodies operate in a manner that instils confidence in all citizens. The Cabinet's policy is also focussed on this.

To combat discrimination on the internet, the Internet Discrimination Complaints Website (MiND) was set up as of 1 January 2013 (www.mindnederland.nl). Citizens are able to report on this site any digital/electronic statements of a discriminatory nature. After receiving a report concerning a discriminatory statement, MiND then investigates whether the statement is (still) online and then whether that statement is unlawful. Should it be found unlawful, MiND then requests that the administrator or moderator of the website concerned remove the statement. Should a (repeated) request meet without compliance, MiND then compiles a report dossier for the Public Prosecutions Department (OM).

Integration policy and dialogue with minority groups

The Advisory Committee posts remarks in relation to Dutch integration policy, observes that dialogue with minority groups such as the Roma and Sinti is seen as limited in extent and expresses concerns about signals that 'anti-immigrant' expressions are increasingly used in the political and public debate.

The Netherlands Cabinet of Ministers pursues generic policy that is not focussed specifically on particular target groups. In relation to integration policy and dialogue with minority groups, a shift has taken place away from a target group approach to a more general policy approach. This policy is a conscious choice, grafted onto the view that equality is better fostered when a uniform policy applies to all irrespective of individuals. By no means does this imply that the government no longer has any interest in consultation with minority groups.

The Cabinet would point out that one of the key facets within Dutch integration policy is reciprocity. Dutch integration policy focusses on adequately furnishing migrants with full participation. It is essential in that regard that migrants have an understanding of the basic principles and fundamental values of Dutch society and that they learn the language. This requires a dual commitment on the part of both migrants and the host society. That commitment is larger for migrants: it may be expected of newcomers that they embrace the values and rules that apply here and make them their own. It may be expected of established Dutch citizens that they accommodate migrants and accept them as equals. The Cabinet is labouring for standard policy aimed at education, employment opportunities and healthcare to reach all citizens in Dutch society in adequate measure, regardless of their country of origin, religion or philosophy of life. Migrants are responsible for making the effort that will enable them to share and participate as full citizens in Dutch society.

Dialogue with minorities and with the Roma and Sinti

The Cabinet has not lessened the importance it attaches to dialogue with minorities. Following the repeal of the National Ethnic Minorities Consultative Committee Act, this dialogue is being taken forward in a different manner. Instead of the formal consultation structures of the past, the Cabinet is choosing, insofar as is necessary, to consult with the parties concerned as has been done lately in relation to the topic of 'anti-Semitism'. All parties capable of making a contribution are invited to take part in such consultations. For example, in addition to the representatives of minority groups, trades unions and municipalities can also be invited. This flexible approach creates an open dialogue that is more broadly based than a mere intercultural dialogue. The advantage of this approach is that various parties are involved, can take responsibility and can contribute to solving social problems.

The Cabinet is aware of the issues surrounding the situation of the Roma, Sinti and travellers. Through the generic integration policy aimed at the taking part and participation of all migrant groups, the issues surrounding the Roma and Sinti are also being discussed and tackled. Implementation of this generic policy in respect of the Roma is chiefly at the local level. The Association of Netherlands Municipalities (VNG) Roma-municipalities Platform was set up in 2009

and has as its objective to provide support to municipalities in tackling problems with a segment of the local Roma population.

At present, 11 municipalities are affiliated. The Platform focusses on mutual cooperation and exchange of information (sharing good practices when dealing with specific groups of minorities). In recent years, the municipal collaborative venture has concentrated on topics such as: education, fighting crime, access to labour markets, fund raising and statelessness. Roma and Sinti who encounter discrimination can report this and receive advice from a local anti-discrimination facility within the municipality concerned.

In addition, the Ministry of Security and Justice brought a programme into being in 2011 entitled Tackling (Roma) Child Exploitation. This programme's objective is to tackle and prevent the exploitation of (Roma) children by facilitating cooperation between municipalities, the police, central government and organisations of importance to a cohesive network approach at local level. Wherever there is a question of criminality within this group, this will be handled using an integrated approach under municipal control. The Platform also intends to incorporate a culturally related dimension when tackling multiple issues in order to achieve a greater chance of success. As an example of this, greater collaboration is being sought with the national project and teaching network *Achter de Voordeur/Multi-probleem gezinnen* ['Behind the Front Door/Multiple-issue Families'] approach.⁸

Points of view in the political debate

In its recommendations, the Advisory Committee calls on the Netherlands Cabinet of Ministers to censure and impose sanctions on all expressions of intolerance in political or public debate.

Everyone in the Netherlands enjoys the same freedoms and everyone must be treated equally. This also applies to freedom of speech. Anyone in the Netherlands may say or write what he or she wishes within the confines of the law, even if others should disagree with it.

The Cabinet acknowledges the impression that the debate in the Netherlands about immigration and integration is sometimes conducted in fierce fashion. Heated debate is unavoidable in a constitutional democracy characterised by great diversity among its people, customs and personal convictions. Equally, that debate is essential, because it contributes towards clarification of problems and bringing about solutions.

The Netherlands is a constitutional democracy with clear rules. However, this is not to say that everyone keeps to the rules. Discrimination – whatever its shape or form – is unacceptable and is countered rigorously. In relation to statements made by political parties, the Cabinet wishes to emphasise that the freedom of speech is a prerequisite for a properly functioning democracy. Nevertheless, racist statements are unlawful. Evaluating whether a criminal offence has been committed is reserved for an independent court.⁹

The Cabinet wishes to underline, as it has also done in its comments relating to the ECRI report, that legal proceedings cannot be instituted against members of parliament, nor can they be sued, for anything they may have said in parliamentary sessions or committee meetings or for anything they may have submitted in writing to such bodies (Article 71 of the Constitution). Legal proceedings can indeed be instituted against members of parliament with regard to all other actions and statements. Articles 58-60 in the Rules of Procedure for the House of Representatives lay down internal rules in the event that during debates a member should, for example, use insulting language, disturb the peace or express approval of, or encourage, unlawful acts. Additionally, should it so wish, the House can at all times deliver a general pronouncement about a particular action. Furthermore, it is up to political parties to consider matters of integrity and points of view when recruiting prospective (parliamentary) candidates for election, and it is up to the electors to do likewise when exercising their votes.¹⁰

⁸ Appendix to the Cabinet's comments in response to the ECRI report on the Netherlands, page 10

⁹ Memorandum "Cabinet's Comments in Response to the ECRI report Racial Discrimination in the Netherlands" to the House of Representatives, dated 18 November 2013, page 2.

¹⁰ Appendix to the Cabinet's comments in response to the ECRI report on the Netherlands, page 8.