

Netherlands Institute for Human Rights

Comments on the Reply of the Netherlands to the reporting form on the implementation of the Recommendation of the Committee of the Parties adopted on 30 January 2020

**to the Group of Experts on Action against
Violence against Women and Domestic Violence**

March 2023

Introductory Remarks

The Netherlands Institute for Human Rights appreciates the government's timely submission of the report on the follow-up of GREVIO's recommendations. In our work, we have witnessed that GREVIO's baseline report has an impact on the formulation of Dutch policy on violence against women. In particular, we see that the obligation to apply a gendersensitive approach is being taken seriously. Nevertheless, the Institute continues to see room for further improvement. Steps need to be taken to guarantee that a comprehensive and gendersensitive approach is applied throughout all levels of policy and in the implementation in practice.

The public attention for violence against women has increased since the publication of GREVIO's baseline report. This is particularly true for sexual harassment as a result of a number of scandals in sectors such as the media and sports. In addition, there has been more attention for violence against women in public, in particular for online and offline violence against women participating in public debate. This has resulted in debates in media and politics and the establishment of service points where experiences with sexual harassment can be reported.

Milestones are the appointment of an independent government commissioner on sexual transgressive behaviour and sexual violence and the adoption of a government action programme on this issue. The Institute welcomes the initiatives that have been planned to address the underlying causes of such behaviour. The need for effective measures is beyond question, as is evidenced by the high numbers of violence against women.

The Institute notices and appreciates the important steps undertaken by the government since GREVIO's baseline evaluation of the Netherlands in 2020. Nevertheless, the Institute continues to see room for further improvement. Issues requiring further attention include coordination in line with article 10 of the Convention, the absence of a comprehensive action plan which covers all forms of genderbased violence against women and consistent attention paid to gendersensitivity in all policy measures.

In light of these issues, the Institute appreciates the opportunity granted to respond to the submission by the government. It will address a number of the questions, in accordance with the order that they have been submitted.

I. Fundamental rights, equality, and non-discrimination (Article 4)

Question 2

Intersectionality

In response to question 2.1 on intersectionality, the government refers back to the particularly vulnerable groups mentioned under question 1.1: women with disabilities, migrant and refugee women and migrants without residence status. While the Institute welcomes the attention paid to these vulnerable groups, there are other particularly vulnerable groups that are not mentioned in the government response. Most notably, the government response does not mention lesbian, bisexual, transgender and intersex women. This is a regrettable omission, considering that lgbtiq+ persons report particularly high rates

of violence. This is especially true for transgender persons and bisexual women.¹ Any long-term strategy or action plan to combat genderbased violence should take into account the particular challenges, risks of violence and backlash faced by those who do not conform to societal expectations surrounding gender and sexuality.

II. Comprehensive and co-ordinated policies implemented under the responsibility of an adequately mandated and resourced coordinating body (Articles 7 and 10)

Question 4.1

A long-term plan/strategy to prevent and combat violence against women

The government lists initiatives that demonstrate its willingness to address genderbased violence against women. A national plan on genderbased violence is being drafted by four ministries and is expected to be published in the first half of 2023. The ministry of Health, Welfare and Sports coordinates the development of this plan. It is expected that this plan will cover various forms of genderbased violence against women, but not all forms. GREVIO urged the government to ‘adopt and implement integrated, state-wide, effective, comprehensive and co-ordinated policies addressing all forms of violence against women and domestic violence – beyond dependency relations.’² The Institute reiterates its preference for a comprehensive action plan that covers all forms of violence against women.

The Institute appreciates the many activities that have been undertaken and are being developed to prevent and combat genderbased violence against women. It also acknowledges that it is the government’s ambition to improve coordination on the basis of the action plan that is currently being drafted. In the view of the Institute, the development of the national plan on genderbased violence creates an opportunity to take a significant step towards the adoption of a comprehensive national action plan. This would facilitate the coordination of actions, plans, programmes, etc. that have been and are being developed by various ministries, as well as to further advance the coordination between the national and regional / local levels. A comprehensive national action plan would promote the implementation of the Convention of Istanbul. To ensure its effective implementation, the national action plan should come with adequate funding and resources.

Question 5

Forms of violence to be covered by the plan / strategy

Domestic violence

The programme ‘Violence does not belong anywhere’ finished at the end of 2021. This programme focussed on addressing domestic violence, including domestic violence against women. In the final report on this programme, the government announced that some of the initiatives that were developed will be continued in the new programme ‘Future scenario child and family protection’. In addition, regional action plans that were drafted as an

¹ Prevalence monitor domestic violence and sexual transgressive behaviour 2022; E. van Oosterhout, ‘[Overal op je hoede: geweld tegen transgender personen in Nederland](#)’, Transgender Netwerk Nederland, 2018.

² GREVIO, Baseline evaluation report Netherlands, 2020, par. 44.

outcome of the programme continued to be implemented with government support until 2022.

The new programme 'Future scenario child and family protection' states that it does not focus exclusively on (families with) children, but on all domestic situations that are unsafe. It aims for a fundamental change in working methods of the various institutions and professionals involved. However, there is hardly any attention in the programme, nor in the progress report on its implementation, on the specifics of intimate partner violence or on the role of gender in domestic violence. The progress report states that the current problems in youth care require a focus on improving child and family protection. Since the programme does not deal with gender roles or gendersensitivity, there is no guarantee that it is implemented in a gendersensitive manner.³ The Institute is concerned about this omission, which is not in compliance with the government's acknowledgement that gender plays a role in domestic violence and that gendersensitive policies are needed to address it.

Femicide

The attention for femicide is increasing in media and political debates. The exact numbers of women whose killing can be considered to be genderbased are unknown. Statistics Netherlands reports 40-45 killings of women each year. The majority of women (56 percent) who are killed, are killed by their partner, ex-partner or a family member. For men, this is 4 percent. Experts point out that the actual number of women killed may be higher, since deaths that are not registered as a result of violence may in fact be cases of femicide. Professionals have insufficient expertise to recognise behaviour and patterns that point to the risk of femicide. It is therefore imperative that the national plan to combat genderbased violence contains specific measures on femicide, including ways to further increase the expertise of all relevant professionals about the behaviour and patterns that often precede the (attempted) murder of a woman by her (former) intimate partner. The Institute welcomes the announcement in the media that the government intends to strengthen its activities to prevent and combat femicide and will continue to follow developments on this issue.⁴

Psychological violence and coercive control

In response to GREVIO's baseline review, the government commissioned a study on the criminalisation of psychological violence. It submitted the report to parliament, with a policy response in which it takes the position that it is not necessary to introduce a separate criminal offence to criminalise psychological violence.⁵ The Institute holds the position that a separate criminal offence is necessary to effectively address this particular form of violence.⁶ In a letter to the parliament, the Institute pointed to article 33 of the Convention of Istanbul, that requires that harmful patterns of behaviour, including coercive control, can be effectively prosecuted and punished. It explained that the current legal framework does not encompass

³ [Toekomstscenario kind- en gezinsbescherming](#), 30 March 2021 and Toekomstscenario, [Eerste voortgangsrapportage](#) over het programma Toekomstscenario kind- en gezinsbescherming, November 2022.

⁴ <https://nieuws.nl/algemeen/20230308/ministeries-komen-voor-zomer-met-betere-aanpak-femicide/>

⁵ [Beleidsreactie op het rapport Naar een aparte strafbaarstelling van psychisch geweld? Voor- en tegenargumenten](#), 14 December 2022.

⁶ College voor de Rechten van de Mens, 25 Januari 2023, [Brief aan de vaste commissie Justitie en Veiligheid over het commissiedebat strafrechtelijke onderwerpen](#).

such behaviour. Also, the existing criminal offences that could in theory lead to prosecution of certain forms of psychological violence, in practice do not lead to prosecution.

Tackling psychological violence requires a wide array of preventive and repressive measures, including the possibility to resort – as a last resort - to criminal law. The government submission refers to a number of initiatives to address psychological violence and coercive control, that may be a step towards more effectively addressing these forms of violence. The Institute looks forward to being informed about additional actions to prevent and combat this most serious form of genderbased violence against women.

Sexual transgressive behaviour and sexual violence

The Institute welcomes the action programme on sexual transgressive behaviour and sexual violence and the appointment of an independent government commissioner who initiates and stimulates a debate in society on changing societal norms. The action programme explicitly formulates the link between the unequal power relations between men and women, both at the societal and family level. The programme aims to change societal culture in order to eradicate sexual transgressive behaviour and sexual violence.

The Institute also welcomes the integral approach taken in the programme and has called upon the government to guarantee that this approach is adopted also in other policy initiatives. The forthcoming action plan on genderbased violence will have a broader scope and cover forms of violence that are not sexual in nature. The Institute also suggested that the government connects this programme with other relevant areas of government policy, such as labour participation and political participation.⁷

Violence in the public sphere, including online violence

Violence against women in the public sphere is rampant, both offline and online. A draft Act on Sexual Offences is currently pending before parliament. This act criminalises sexual harassment in public, both offline and online. As regards online violence, various groups of women are targeted more severely than others, such as female journalists, female politicians and other women who are visible in the media, including experts and activists. The high rates of online violence against women may have a chilling effect on women's willingness to publicly voice their opinion and participate in public debate. The Institute has asked the government to guarantee that gender is taken into account in its actions to prevent and combat violence against persons taking part in public debate.⁸

Questions 8-9

Coordinating bodies

The government is satisfied that the coordination of policies and measures to prevent genderbased violence as it functions at present is adequate and in compliance with the Convention. While the Institute appreciates that four ministries are involved in drawing up the action plan on genderbased violence, it does not agree that the current coordination structure meets all requirements of article 10 of the Convention. The information provided by the government does not describe how coordination between the initiatives is achieved.

⁷ College voor de Rechten van de Mens, 20 January 2023, [Inbreng Commissie debat Integrale aanpak seksueel grensoverschrijdend gedrag op 25 januari 2023](#).

⁸ College voor de Rechten van de Mens, [A safe environment for public debate, Annual report on human rights in the Netherlands 2021](#) [summary published in English], Utrecht: 2022.

Further, it is imperative that each policy initiative is compatible with the Convention of Istanbul and contributes to its implementation. Consultations between government departments and uniting their plans in one document is indeed an important step towards coordination. However, there is no government official or government department that bears overall responsibility for the approach as a whole, and has the mandate or power to instruct other departments in their work. For example, there is no government official or government department that has the mandate or power to ensure that the participating departments incorporate a genderperspective in their work and implement the general obligations laid down in the Convention of Istanbul. In the case of a gap in the protection of women's right to be free from violence, neither of the departments can make sure that this gap is filled.

The following questions reflect the Institute's main points of concern:

- Do all policies combined cover all forms of genderbased violence against all women?
- Is each policy initiative gendersensitive?
- Do the professionals involved have the necessary expertise to apply a gender perspective in their work and are they aware of the rights of women and their own obligations under the Convention? Which steps are being taken to improve their skills and expertise?
- Do these professionals all have essential human and financial resources to perform their tasks adequately?

Finally, the implementation of all policies should be monitored by one or more official bodies, as required by article 10 of the Convention. The government's submission does not provide information on that aspect. The Institute is concerned that there is no monitoring body to evaluate whether all initiatives are compliant with the Convention and contribute to its implementation. As a consequence, there is no official body that has the authority to ensure that policies and practice of all government departments involved comply with the Convention. The same holds true for the regional and local level: there is no monitoring and evaluation of the way in which regional policies are implemented in practice and no official body has the authority to direct regional and local authorities to act in compliance with the Convention.

V. Data collection and research (Article 11)

Questions 17-19

Disaggregated statistical administrative data

The government indicates that no further steps have been taken to improve the collection of data from the police and the judiciary. This means that there is still a lack of disaggregated relevant statistical administrative data as required by article 11 of the Istanbul Convention. The government explains that the recording systems of the police and the judiciary are primarily set up to support the working processes of their tasks and are not designed for reporting or research purposes. However, for the purpose of collecting disaggregated statistical data in accordance with article 11 of the Istanbul Convention, public authorities such as the judiciary, the police and social welfare services, should set-up data systems in

place that go beyond the internal recording of the needs of the agency.⁹ The government should therefore intensify its efforts to work towards such a system.

The Institute notices and welcomes the efforts of the government to collect the relevant data through population-based surveys, such as the prevalence monitor domestic violence and sexual transgressive behaviour and the impact monitor domestic violence and child abuse. Nevertheless, the collection of data in this way does not absolve the government from its obligation to collect disaggregated statistical administrative data from relevant public authorities, including the police and the judiciary.

Specific recommendations

Question 32

Territorial application of the Istanbul Convention

With regards to the Caribbean countries within the Kingdom of the Netherlands, the government response clarifies that '[if] so asked, the Netherlands will in the near future consider whether it can assist the Caribbean countries in implementing the Istanbul Convention.' The Institute points out that the Charter for the Kingdom of the Netherlands, which governs the relationship between the Kingdom and its constituent countries, clearly calls for a more proactive approach in relation to the Caribbean parts of the Kingdom.

The Charter prescribes that the primary responsibility for the realisation and safeguarding of fundamental human rights lies with the autonomous countries. However, to the extent that these countries are unable or unwilling to fulfil this obligation, the government of the Kingdom has a responsibility to safeguard and guarantee fundamental human rights.¹⁰ The government of the Kingdom should thus actively support the constituent countries with the implementation of human rights treaties, including the Istanbul Convention. The government of the Kingdom has a responsibility to ensure the constituent countries have the necessary legal and institutional frameworks in place to effectively implement human rights treaties. This includes providing technical assistance and capacity-building support to the constituent countries as needed. This demands a more proactive approach than the government is currently taking in relation to the Istanbul Convention.

In 2022, it was announced that the Istanbul Convention will not enter into force for Bonaire, Saba and Sint Eustatius (the Caribbean Netherlands) before 2025. The Institute has expressed its concern about this approach and has urged the government to not delay the ratification and full implementation of the Convention any further.¹¹

In November 2022, the government published a decree on social support and the approach to domestic violence and child abuse for the three islands. The decree constitutes a welcome step towards the ratification of the Istanbul Convention for these islands, as it gives effect to some of the obligations stemming from the Convention. Measures that are being taken that affect the scope of the Convention of Istanbul should be in compliance with the obligations laid down in the Convention. The Institute therefore called upon the government

⁹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, § 76.

¹⁰ Article 43 paragraph 2 Charter for the Kingdom of the Netherlands.

¹¹ College voor de Rechten van de Mens, 23 December 2022, [Wetgevingsadvies Besluit maatschappelijke ondersteuning en bestrijding huiselijk geweld en kindermishandeling BES](#).

to guarantee that the decree and its execution take into account the general obligations of the Convention.

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