

## **Statement at the conclusion of the country visit to the Netherlands**

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### **Introduction**

Today, I conclude my 11-day mission to the Netherlands, which took place from 11 to 21 December. The Netherlands is a country of unique institutions, geography and traditions, that I have had the chance to get to know better. I would like to express my sincere gratitude to the Government of the Netherlands for the invitation and excellent cooperation both before and during the visit. Every institution that I have approached has engaged with me in sincere dialogue and collaborative spirit.

Over the course of my visit, I have met with officials from various Government Ministries, municipalities, businesses, social housing providers, professional organizations, judges, human rights institutions, organizations and movements, as well as residents, minorities, migrants, refugees and asylum seekers.

I have travelled to the Hague, Rotterdam, Amsterdam, Castricum, and Groningen, among others. I have visited a number of sites, including social housing neighbourhoods such as Tweebosbuurt, homeless shelters, temporary housing, reception centres for asylum seekers and Ukrainians, a caravan site, and homes vulnerable to earthquakes due to gas extraction in Groningen.

### **International legal order and national legal framework**

While the right to adequate housing has been recognized by the Netherlands through the ratification of international human rights treaties, it does not seem to be available as a justiciable right in the domestic legal order of Netherlands. It is imperative for the Netherlands to incorporate the right to adequate housing in its domestic law. This needs to start with an amendment of article 22.2 of the Constitution, and permeate through the various pieces of legislation and policies concerning housing. It is insufficient to say that “it shall be a concern of authorities to provide sufficient living accommodation” to fulfil the international human rights obligations Netherlands has assumed under the International Covenant on Economic, Social and Cultural Rights. The human right to adequate housing requires more than saying that access to housing should be a concern of State authorities. A human right in national legal order must lead to effective remedies while guiding State policies and meeting the expectations of residents.

I also strongly encourage the Netherlands to ratify as soon as possible the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which will allow the relevant Committee in Geneva to examine individual complaints. This will greatly enhance the capacity and understanding of the judiciary, which currently sees housing more as a policy objective of the State, than a protected human right.

## **The Dutch housing crisis**

Starting with the Government down to many others I spoke to on the street, I have been made aware of the acute and massive housing crisis that is affecting the country, especially among young adults, older people, and economically weaker individuals.

This housing crisis has been building over a couple of decades through an active policy of encouraging the market to replace the government in the provision of housing. It was believed that housing is so well taken care of that a previous Minister took the unique decision to close the previously existing Ministry of Housing and Spatial Planning, as a sign that it is no longer needed. The market, of course, takes care of its own interest and does not care about fulfilling the right to adequate housing.

Word on the street is that an "influx of foreigners" is the reason why the country is facing this acute housing crisis. However, most people with expertise, including in the central and local government, civil society and academia, tell me this is untrue. It is an argument that has been used for political ends, only contributing to stereotypes against certain groups of foreigners. In fact, statistics do not show an alarming increase in the inflow of asylum seekers.

So I'd like to underline: this housing crisis is not due to migration and refugees but due to the failure to recognize and protect housing as a human right.

I'd also like to underline that this is as much a crisis of the low number of housing stock available, as it is a crisis of unaffordability of housing, including too high limits on rents and poor regulation of rental contracts. Many composite measures are necessary to tackle the crisis of unaffordability of housing but, among others, I would encourage the Netherlands to enhance the power of municipalities to impose rent caps or rent control as needed.

## **Policy and institutional framework**

Last year, the post of a Minister without portfolio charged with housing was created under the Ministry of the Interior and Kingdom Relations. It has since been staffed with an administration. This Ministry has been credited by various actors for speaking increasingly of a right to adequate housing, and more concretely putting in place a strategy for housing, supplemented by several sub-strategies in various areas such as housing for everyone, affordable living, sustainability and liveability. It should be noted however that, as they are very new, these programmes are mostly yet to be implemented. In this key post-election period, I call on all political parties to pledge their continuous commitment for the implementation of these policy goals that have been set by the current government and to continue strengthening the capacity and knowledge base of the Ministry of Housing.

It is also notable that responsibilities for housing are splintered across various central bodies. Notably, the Ministry of Health is charged to work on the issue of homelessness and has developed a National Action Plan on Homelessness, which has been welcomed by various practitioners as a major step forward, albeit, lacking the language consistent with the right to adequate housing approach. The Ministry of Social Welfare is in turn in charge of various housing welfare benefits. The Social Housing Bodies Authority is actually under the Ministry of Infrastructure and Water Management. This fragmentation appears to pose challenges to addressing housing and homelessness through a holistic approach.

Furthermore, I have noticed that substantial power and responsibilities in the area of housing rests with the municipalities. However, in the absence of detailed requirements and goals, it has been left to the municipalities to determine how to apply central legislation and policies. This has also led to disparate approaches, and outcomes.

I am encouraging the Netherlands to integrate all housing functions including homelessness into a new single Ministry of Housing and ensure that it is adequately resourced.

The goal set by the outgoing government is to construct additional 900,000 new housing units by 2030. However, it is unclear how this will be achieved considering strict limits on nitrogen and carbon emissions. The Netherlands needs to enact a new national climate sustainability policy on the building sector and align goals with the national housing policy. The Netherlands should transition away from natural gas for households and find creative financing for home owners to reduce emissions.

The construction of new housing is also confronted with the shortage of adequate land and creative land and housing policy alternatives. I would encourage the Dutch municipalities to explore the use of land banks or land pooling arrangements. Community land trusts or other public, non-governmental collective ownership or management of land, must be recognized by law. Housing cooperatives that are non-profit and not owned by private sector, must be recognized to develop housing for themselves.

### **Social housing**

The Netherlands has one of the highest, if not the highest, rates of social housing in Europe. This great achievement, some say, is a cultural heritage and should be protected as such. However, social housing has come under attack in recent years through deregulation and decentralization, whereby housing associations have transitioned from public organizations into private, not-for-profit organizations. Some have consolidated into large corporations, operating much like businesses, allowing irregularities such as too many bonuses to be paid to the top executives, leading to the infamous Maserati incident. In the worst case, they have themselves engaged in speculation on the financial markets losing billions, which caused them to sell social housing en masse to recover their losses. Following several such incidents, there has been an effort to reign in social housing. A housing association authority was created, which is meant to keep a closer eye on the finances of the housing associations.

However, the decline of social housing has continued and leads more and more to social stigma. Social housing in areas deemed to be in decline, affected by higher concentrations of poverty, have been left for years without maintenance, renovations and upgrading.

Under pressures of the need to have more social housing built, and given limited land availability, municipalities and housing associations paradoxically have turned to the demolition of entire social housing buildings and neighbourhoods in order to make land available for new construction. In many cases, the affected inhabitants state that their homes are structurally solid and could have lasted for many more decades to come. In some cases, this is often confirmed by independent evaluations by architects. It is also confirmed by the fact that some of the buildings slated for demolition have just recently undergone complete renovations, or climate upgrading, which indicates only a few years ago the same homes were deemed worthy of the investments. I am concerned that the demolition of social housing will only increase the current pressure on social housing, and will detract from the efforts to increase the housing stock in the country.

The sometimes-premature demolition of entire social housing buildings and neighbourhoods have led to the destruction of entire communities and social networks, have had mental and other health consequences for the inhabitants, and have had significant and specific impacts on older people, young families with children, single mothers, etc. There is a strong belief among the affected people that such neighbourhoods have been targeted because of higher proportions of non-Dutch residents. This assumption is undoubtedly linked to the fact that until recently non-Western makeup was used as a variable in determining the liveability of neighbourhoods and consequently leading to demolitions, linked to the implementation of the “Rotterdam Act”.

In many of the neighbourhoods I visited, residents complained that despite the existence of participation mechanisms, they were denied the possibility to have a say and to make their own alternative proposals to the demolition plans. Some complained also of irregularities, a lack of transparency and information-sharing in the decision-making, as well as abrupt and short demolition notices. I would encourage both the municipalities and social associations to step up early communication and consultations, ensure full accountability and transparency vis-à-vis the inhabitants they are meant to serve. On the question of accountability, I would also encourage the Netherlands to ensure that the entire system of social housing is subject to independent oversight – whether by the expanding the jurisdiction and current structure of

the Ombudsman Institutions, or by creating an entirely new mechanism. Wherever it is placed, this mechanism should be sufficiently resourced and mandated to receive and investigate complaints against social housing associations across all their activities. I would encourage the Netherlands to protect social housing and expand it, including by promoting the use of sustainable and local construction materials.

When it comes to asserting their rights, I am concerned that tenants are not on a level playing field, lacking in professional knowledge and capacity to make full use of the available tools.

On a positive note, numerous social movements have emerged to counter the demolitions, demanding the recognition in the Netherlands of a right to adequate housing. I encourage local and central government institutions to engage in good faith and with transparency in dialogue with these movements, listen to their concerns and design new effective policies jointly that fully take into account their concerns and aspirations. I strongly encourage all relevant stakeholders to enact a tenant bill of rights including access to justice, protection against usurious rent increases, adequate notice of renovations and demolitions.

### **Various forms of temporary housing**

I was surprised to discover the extent of various forms of arrangements and use of temporary housing. While a law on temporary housing has been in place for a few years now, there was a recent successful effort to repeal this form of housing; however eventually the amendment law was passed with many exceptions. Temporary housing has been criticised for eroding security of tenure, and allowing rent increases at the end of each lease contract.

In reality, temporary housing is used to house various categories of people, many of them marginalized or at risk of falling into homelessness. In Amsterdam, I learned about a project that accommodates so-called “economic homeless” in buildings slated for demolition as temporary housing for a period 1 year, giving them a chance to get back on their feet and find proper housing. Although not ideal, this was hailed as a good interim solution.

All temporary contracts should enjoy the same legal protections as permanent rental contracts with regard to legal protections and remedies including with regard to evictions and habitability.

However, in the affluent-municipality of Castricum, I observed temporary housing in the form of container housing – metal boxes camouflaged to look like a more eco-friendly construction – where various groups are housed including “economic homeless” and recognized refugees. Water pouring through the roof when it rains, dangerously high levels of humidity coupled with lack of ventilation producing mould, and extreme heat in the summer, combine to create unhealthy housing conditions inconsistent with human dignity, particularly for an affluent society such as the Netherlands.

In the Hague, I observed a large, privately-owned residential building, which is rented by an employment agency to house migrant workers from other EU countries, particularly in Central and Eastern Europe. I learned of shocking employment conditions akin to labour exploitation whereby people pay exorbitant fees for their housing, health insurance and even transportation to and from work to the same employment agency. At the end of the week, they may be left with as little as EUR 50 of real earnings, provided they do not get “fined” for breaking the rules such as for example not taking out the trash. Should they get injured, or fall sick, or raise questions, they lose their job, and automatically with that they lose their accommodation, ending up on the street. I was furthermore surprised to discover that 12,000 such employment agencies are registered in the Netherlands, that no agency is monitoring their activities, and that indeed, registering an employment agency is as simple as showing up at the chamber of commerce.

Anti-squats appear to be the most precarious form of housing in the Netherlands, where people sign contracts of use, instead of rental contracts, and there is really no obligation for the place to actually be habitable. In my view, this type of arrangement needs to be abolished immediately and instead squatting should be decriminalized again, especially when it comes to speculative property.

## **Homelessness**

While the official statistical estimates in the Netherlands indicate a decrease in the number of homeless people, the recent implementation of ETHOS Light in two pilot municipalities has revealed much higher than previously known hidden levels of homelessness, including especially vast underreporting of women and children, due to definitions in use. The exclusion of undocumented women from statistics, has resulted in a huge protection gap, putting women at risk of domestic violence, trafficking and other abuses. I would encourage the adoption of ETHOS Light nation-wide and the relevant authorities should ensure the results of counting need to be fully taken into account when it comes to efforts to address homelessness.

The housing crisis, coupled with the recent cost-of-living crisis, have resulted in scores of people who are no longer able to afford their rent and have gradually fallen into homelessness, or are at immediate risk. People losing their jobs, couples separating, spouses dying - these are not only life-altering events, but actually events that put people at imminent risk of falling into homelessness.

I have been puzzling over the approach of the Netherlands to “economic homelessness” and the concept of “self-reliance”, which is a way of distinguishing between those “deserving” and “undeserving” of support. The idea that one is only worthy of support when they have mental or other significant health issues is actually putting more people at risk. By remaining on the street for long periods of time, most people do in fact get sick and actually their life expectancy drops significantly, I am told.

When migrant workers from other EU countries lose their jobs, they lose their accommodation provided by temporary employment agencies, and they end up on the street. This category has only recently been recognized and allowed access to shelters, which has already resulted in a high increase of those seeking placement in shelters.

Then, there is an entire sub-category of undocumented migrants which is extremely vulnerable. They are not allowed access to shelters and in fact, if they seek access, they risk being detained. Only when the temperature drops under zero degrees Celsius are they allowed into the so-called zero-degree shelters. The most vulnerable group are undocumented families with children, especially women-headed households. They would do anything to avoid detection, because then they are given the choice to either give up custody of their kids, or be deported to their countries of origin. It is heartless to make people choose between separation with their children, and being homeless and live in hiding to avoid detection.

I'd also like to draw attention to the fact that there exist various practices across the municipalities in effect criminalizing homelessness which should end now.

The shelter system needs a radical overhaul and expansion. Night shelters should be open to all in Netherlands irrespective of the night time temperature.

## **Homes impacted by earthquakes due to gas extraction**

I am struck by the years of uncertainty, insecurity and anxiety that people living in the gas extraction zone have experienced, with damages and structural weaknesses caused by numerous shallow earthquakes in Groningen/Eemdelta area. The material damage to their homes, is just one part of the story. People are under continuous anxiety, ruining physical and mental health, a sense of unequal treatment and destruction of the social fabric - affecting all generations.

First, all gas extraction in the Groningen/Eemdelta region must be ended immediately and definitively. Second, the community needs mending. All stakeholders and families should come together to address grief, loss and psychological impacts in addition to economic impacts, through a collaborative and

participatory planning process that fosters transformative community change and greater benefit sharing.

### **Accommodation of refugees and asylum seekers**

I would like from the outset to point to the difference in treatment of people who have arrived from Ukraine, as opposed to people seeking protection in the Netherlands, arriving from other countries. I visited a lovely reception facility for Ukrainians in the city of Rotterdam, with all round support services, care and compassion. I wish that the same treatment was extended to all people seeking refuge in this country. Ukrainians on the other hand are in limbo. They have the status of asylum seekers, but technically they are not awaiting determination procedure, and the blanket protection extended to them can in principle end at any time, leaving them in vulnerable situations.

On the other hand, there is overcrowding in reception centers for asylum seekers, not due to hordes of new arrivals to the country – as I already mentioned - but rather due to a significant backlog before the Immigration and Naturalisation Service (IND). In addition, while many refugees should be moving on from the reception centers, many of them remain there for months, due to the lack of affordable housing outside.

The Netherlands has regrettably maintained a low capacity in its system of reception centers. In addition, the reluctance of some municipalities to accept their share has forced COA to resort to temporary agreements for the creation of emergency reception shelters – open for several months a year, closed for the rest. These reception centers pose significant challenges to COA staff, who need to deal with rapidly changing requirements and circumstances. In addition, the conditions in these reception shelters are often deplorable with overcrowding, unsanitary conditions, challenges in accessing medical facilities, alienation from society, etc., overall amounting to serious violations of the right to adequate housing and other human rights.

I am particularly concerned that there has been a disproportionate impact on children, whose families have to move from one location to another, reflecting preferences of the municipalities to host families with children, rather than single men. Children need stability in their lives more than any other group and I call on the Netherlands to organize its systems differently, so that they are relocated as little as possible throughout the refugee determination process.

### **Caravan dwellers**

Caravan dwellers, who have historically experienced marginalization and what they call an extinction policy, have had to settle down on permanent caravan plots, which they are leasing from the municipalities. However, still far too few caravan plots have been made available. They have little security of tenure putting them at eviction risks, without their free, prior and informed consent.

### **Students**

Dutch universities have been attracting international university students for years, but from all accounts, the numbers of all students have gone up. However, many, if not most universities seem to abrogate their responsibilities when it comes to ensuring that students have somewhere to live. This has in fact led to homelessness, lack of security of tenure, and vulnerability to harassment and overcharging by private landlords, affecting particularly international students. The number of students admitted by any university should not exceed the number of available rental housing in the area where the university is located.

### **People with disabilities**

Leaving no one behind would also require the Netherlands to legally mandate disability access to all public buildings, social housing, hotels, commercial establishments and businesses, as well as sidewalks and public spaces.

## **Conclusion**

I will provide additional details and recommendations on these issues, in my full report to the UN Human Rights Council, which I will present in March 2024. In the meantime, I urge the government of the Netherlands to fully embrace the right to adequate housing and a rights-based approach to all of the above-mentioned housing issues, ensuring the protection of vulnerable and marginalized individuals and communities.

I would like to conclude by reiterating my great respect and admiration for the innovative spirit and determined resilience of the people of this country who have faced adversity from flooding as a low-lying country for centuries, and the destruction of Rotterdam due to domicile during World War II. What Netherlands has accomplished offers a great model for so much of the world who are facing grave adversity due to the climate crisis. I wish the people and the leaders of Netherlands my warmest wishes and greetings as I conclude this visit.