

Delegation from The Netherlands Position Paper for the Human Rights Council

The Netherlands highlights the immediate relevance of the following topics before the Human Rights Council (HRC): I. Combating Racism, Racial Discrimination Xenophobia and Related Intolerance, and II. Business and Human Rights. Being a member state of the European Union, the Netherlands is especially aware of the importance of coordinated international efforts when combatting the above-mentioned challenges and is looking forward to discussing related solutions to the latter as part of the approaching conference.

I. Combating Racism, Racial Discrimination, Xenophobia and Related Intolerance

Acknowledging the multi-faceted nature of the challenges when it comes to combating racism, racial discrimination, xenophobia and related intolerance, the Netherlands first and foremost deems it necessary to place an emphasis on the two most pressing issues in order to tailor the measures taken: the use of online platforms as a means of wide-spreading xenophobic and racist content in the virtual dimension on the one hand, and preventing xenophobia against migrants in its concrete manifestation on the other hand. While the former is an especially demanding issue regarding the ongoing normalization of hate crimes and opening the door to the spread of racist and xenophobic ideologies, it also fuels other problems, such as the second challenge regarding xenophobia against migrants, which has become a pressing issue given the large increase in migrants over the past few years with the International Organization for Migration (IOM) estimating that 3.60% of the entire global population can be classified as migrants in its World Migration Report 2020.

In the context of the first challenge at hand, the Netherlands emphasizes that the virtual character of the former does not diminish its immediate impacts on our reality. This, however, implies that a laterally reversed approach, in which reality impacts the virtual world, is also possible, as shown by the Convention on Cybercrime regarding the penalization of internet crimes. Furthermore, The United Nations Educational, Scientific and Cultural Organization (UNESCO), having adopted an integrated strategy to combat the above-mentioned topics, proposes measures in response to threats on the internet, and promotes the Teaching Respect for All initiative regarding school curriculums as described in the report of the Special Rapporteur A/HRC/26/49. The current efforts especially demand further law enforcement, an increased use of adequate monitoring, such as through the Hate Speech Watch, and further cooperation on an international level, including non-governmental organizations (NGOs) and other international actors.

Regarding the Second challenge, keeping in mind the New York Declaration for Refugees and Migrants, as well as the Global Compact for Safe, Regular and Orderly Migration as elaborated on in the United Nations (UN) General Assembly (GA) resolution A/RES/73/195, the main problems hindering progress toward the eradication of discrimination and xenophobia can be identified as the lack of information, which is fundamental to policy making, as well as problems with the establishment laws and action plans. The urgency regarding such implementation is underlined by the IOM and the International Labour Organization (ILO) by their advocacy for promoting, inter alia, the spread of positive facts, amending school curriculums, and implementing the relevant monitoring standards. With an ethnically and racially diverse population of over 17.5 million people due to its colonial past, the Netherlands is especially committed to ensuring the integration and inclusion of migrants.

Consequently, the Netherlands has taken action and adopted multiple laws and action plans, such as the amended Equal Treatment Act and the national action plan against discrimination, combined with the labour market anti-discrimination action plan and the pregnancy anti-discrimination plan, as well as the currently reviewed Action Plan on Human Rights, making an example of successful incorporation into national law. Keeping in mind the importance of adequate monitoring, the Netherlands reiterates the relevance of monitoring means, such as the hate speech watch. The Netherlands itself has implemented monitoring methods through establishing The Netherlands Institute for Human Rights and the National Ombudsman, which receive complaints, give legal advice, and monitor compliance with the law set in place. On top of that, the Netherlands has started initiatives in order to further bolster monitoring and combat the challenges faced through a cooperation between the Netherlands Police, local anti-discrimination agencies, the National Association against Discrimination, the National Hotline for Online Discrimination, and the Institute for Human Rights. The Netherlands remains proudly committed to its successful implementation of measures and initiatives and calls upon all of the

Members of the HRC to form and further strengthen partnerships with NGOs, as well as National Human Rights Institutions (NHRIs) in order to increase the exchange of knowledge on possible measures, as well as getting a hand on the urgently needed implementation of adequate monitoring.

II. Business and Human Rights

With further growth in globalization, international markets and outsourcing strategies of businesses, it is inevitable that supply chains and related legal questions become more complex. The trend for companies follows this principle, as they themselves develop into multinational or transnational corporations (MNCs and TNCs). As a consequence, especially of the related outsourcing and more complex supply chains, MNCs and TNCs are often able to evade legal consequence in the cases of Human Rights violations as they are able to strategically set up their subsidiary companies in countries with weaker legislations or law enforcement mechanisms. The COVID-19 pandemic only further aggravated already existing precarious situations, especially the ones of women and girls who, according to the International Labour Organization (ILO)'s Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, account for an alarming 71 per cent of modern slavery victims.

These numbers highlighting the urgency of the action required, the Special Representative of the Human Rights Council (HRC) established the Guiding Principles on Business and Human Rights, which, after approved by the HRC, became part of the HRC resolution 17/4. Currently working on a voluntary participation system, the guiding principles emphasize the importance of National Action Plans (NAPs), the application of due diligence by businesses, as well as improving access to and availability of remedy for victims of Human Rights violations. In accordance with these measures proposed, the Netherlands, having already developed various national action plans regarding human rights issues, has been developing a National Action Plan on Business and Human Rights over the past few years, focusing especially on the state's obligations to respect, protect, and fulfil human rights, as well as its responsibility to provide adequate support and effective remedies for human rights violation victims. Moreover, in order to also ensure the responsibility of business to respect human rights, the Netherlands has developed an International Corporate Social Responsibility (ICSR) policy, tailored specifically to the role of businesses under the UN guiding principles, also taking into account their respective production chains. Adding on, the Netherlands has established a national human rights institution, the Netherlands Institute for Human Rights, as a response to and in compliance with the Paris Principles regarding the status of national institutions for the promotion and the protection of human rights. Additionally to the voluntary framework, the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (OEIGWG), established by the HRC in its resolution 26/9, drafted an international legally binding instrument with the purpose of regulating activities of transnational corporations and other business enterprises in human rights law. Recognizing the importance of the inclusion of private businesses in order to foster understanding for the measures taken, the Netherlands approves of the UN Global Compact, acknowledging the possibility of directly promoting tools and resources as well as increase cooperation in order to mainstream the implementation of human rights into business strategies. Committed to the Sustainable Development Goals (SDGs), in the context of human rights violations especially emphasizing the Target 8.7, that calls, inter alia, for effective measures to end modern slavery, the Netherlands acknowledges the importance of a foreign policy implementing and reflecting these principles. Therefore, it has created the Policy Document on Foreign Trade and Development Cooperation (BHOS), including the issue of business and human rights, in light of the SDGs.

The Netherlands, as party to most European human rights instruments as adopted by the Council of Europe (CoE), commends the above-mentioned draft of an international legally binding instrument, viewing itself as continuously committed to its long-standing tradition of advocating greater attention to human rights violations nationally and internationally. Drawing from its own experience, the Netherlands recommends the creation of a national fund, such as the Netherlands Human Rights fund. Seeing the success of the joint programme between the ILO, the Organisation for Economic Co-operation and Development, and the European Union (EU), the Netherlands encourages the creation of programmes similar to the EU-ILO-OECD Programme on Promoting Responsible Supply Chains in Asia. The Netherlands, criticizing the stagnating implementation and lack of the urgently needed concrete action, furthermore wants to raise awareness for the work of the Forum on Business and Human Rights as an opportunity for knowledge exchange, as well as the support offered by the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Entities (WGBHR). The Netherlands deems the HRC the perfect place for fostering global discussion on future solutions.