



Position paper on the CRPD ratification process in the Netherlands:

Unwilling or just really slow?

To: Navi Pillay, UN High Commissioner on Human Rights
From: Coalition for Inclusion, the Netherlands
Date: September 25, 2012

The Coalition for Inclusion is a strong network on inclusion and disability rights that consists of organizations of persons with disabilities, self-advocates, parents, care providers, educational organizations and individuals who strive for inclusion of persons with disabilities.

The Netherlands (NL) became a signatory to the Convention on March 30th, 2007. It did not sign the Optional Protocol to the Convention. In its Universal Periodic Review of 2008, NL stated that the ratification process was ongoing. The Netherlands stated in its UPR four years later that it was "currently preparing an Act of Parliament for its approval", and that "preparations are also being made for the optional protocol to be signed". In fact, between 2007 and 2011 little happened, despite several actions from dpo's to raise public awareness and speed up the process. Pressured for ratification by the Lower Chamber of Parliament in 2011, the State Secretary Veldhuijzen van Zanten-Hyllner ordered an impact analysis on the nature and the extent of the material obligations created by the treaty. Why this had not been done much earlier is unclear.

SIM, the Study and Information Centre on Human Rights of Utrecht University, concluded in January 2012 that no new material obligations would flow from the CRPD as they existed already as a result of existing treaties. The CRPD would do no more than extend existing obligations specifically to persons with disabilities. This was followed by a request from government for further information from SIM on the requirements regarding accessibility of goods and services. Recently a second impact analysis was ordered following pressure from the Finance Ministry on the financial consequences of ratification. Despite a promise to do so, the results of the impact analysis have not been discussed with the Coalition for Inclusion.

Besides dragging on treaty ratification, unlike our neighboring countries as well as the European Union, the Dutch government also fails to meet the obligation that comes with signing the CRPD. It is to refrain from actions that are not in line with the goals and intent of the CRPD (Art. 18 Vienna Convention on Treaties). Two recent examples of actions that violate the intent of the CRPD: the government decided in 2011 to limit the personal budget system, which enables independent, self determined living in the community with care or support. The personal budget system is a way of implementing Art. 19 a, b CRPD. Another example is the proposed bill for a Care and Restraint Act (Wet Zorg en Dwang), concerning care for persons with intellectual and/or psycho geriatric impairments. The proposed Act is considered to provide less legal protection for the persons concerned than its predecessor, the Act BOPZ, especially where it takes little regard of the opinion of the person involved and/or his or her representative concerning a specific intervention. This does not comply with Art. 14 of the CRPD. Furthermore, the human rights of people with disabilities are not being mainstreamed. Whether talking about employment, education, domestic violence or child abuse, persons with disabilities remain basically invisible. The Dutch UPR of 2012 clearly demonstrates that.

Reasons for the delay can be found amongst others in the opposition to ratification from national organizations of employers, the silence of unions on this matter and the point of view of the biggest political party at the moment, the Liberal Party (VVD). A spokesperson for this party, Mw. Venrooy, recently said that the CRPD touches the sovereignty of the NL, probably referring to the individual complaint opportunity in the Optional Protocol. Another barrier to ratification may be the perceived obligations concerning the accessibility of goods and services as provided in Art, 9 and the perceived costs of realization. An old Dutch merchant wisdom is that investment comes before profit, Dutch government seems to lack understanding of this wisdom. Meanwhile most of the other political parties have currently come to support ratification of the CRPD and the criticism on the Dutch reluctance on ratification harvests growing criticism among the EU.

Concluding: In the opinion of the Coalition for Inclusion, the extreme delay, the ongoing gathering of information, the lack of government staff to discuss and develop a national implementation strategy and national action plan, the lack of a national coordination point on the CRPD, the mentioned examples of failing to respect the Vienna Convention on Treaties, and failure to show progress in mainstreaming show the lack of insight in the prevalence and seriousness of human rights violations of persons with disabilities in our society¹ and the lack of urgency and priority that the Dutch government assigns to the realization of human rights of persons with disabilities.

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¹ More examples of current Human Rights violations in the NL can be found in the report by St. Perspectief to the OHCHR on the UPR 2012