

Amnesty International Report 2021/22; The State of the World's Human Rights; Netherlands 2021

Legislation excluding certain documents as evidence in applications for international protection was ruled in violation of EU law. A new bill defining all forms of involuntary sexual penetration as rape was published. The tax authorities used a discriminatory algorithmic system to detect potential fraud in childcare benefits. A court ruled that border police could continue to use racial profiling. The National Coordinator for Counterterrorism and Security was revealed as having illegally monitored activists on social media for years.

Refugees' and migrants' rights

In June, the European Court of Justice ruled that Dutch legislation – which automatically dismissed subsequent applications for protection as inadmissible when the documents submitted were not authenticated – was not in line with EU law. This ruling makes it possible for rejected applicants for international protection to submit new applications, with the authorities no longer able to refuse to examine such documents.

People seeking international protection in Curaçao, one of the constituent countries of the Netherlands, were detained in inhumane conditions, subjected to ill-treatment and denied their right to seek protection.¹

Violence against women and girls

In March the Minister of Justice and Security published a new draft of the Sexual Offences Act which proposed that all involuntary sexual penetration would be defined as rape. By year's end the proposal had still not been submitted to parliament, however, and civil society expressed concern at the minister's suggestion that the bill may not be implemented until 2024.

Discrimination

Algorithms

The tax authorities were exposed as utilizing a discriminatory algorithmic system to detect inaccurate and potentially fraudulent applications for childcare benefits. Tens of thousands of people were falsely accused of fraud and were compelled to repay large sums of money. This led to devastating problems for the families, ranging from debt and unemployment to forced evictions and health issues. In particular, people with a migrant background and from low-income households were disproportionately affected as information on whether an applicant had Dutch nationality was used as a risk factor in the algorithmic system and the algorithms assigned people on lower incomes a higher risk score.²

Racial profiling

Law enforcement agencies continued to use racial profiling, although the government denounced the practice in principle. In September the District Court of The Hague ruled that ethnicity could be used along with other criteria in deciding whether to stop an individual against whom there was no suspicion of any wrongdoing. A civil society coalition including Amnesty International had filed the lawsuit seeking to challenge racial profiling.³

Right to privacy

In April, journalists revealed that the National Coordinator for Counterterrorism and Security had been monitoring activists on social media for years. The Coordinator collected, analysed and shared their personal data without a legal basis or the activists' consent, using fake profiles. After the revelations, the Minister of Justice proposed a controversial and far-reaching bill through which the

government urgently sought to continue online surveillance. Amnesty International urged the ministry to address the human rights impact of such surveillance and enshrine human rights protection in law.

1. [Netherlands: Still no Safety: Venezuelans Denied Protection in Curaçao \(Index: EUR 35/4724/2021\), 11 October](#)
2. ["Netherlands: Dutch childcare benefit scandal an urgent wake-up call to ban racist algorithms", 25 October](#)
3. ["Netherlands: Court allows racial profiling", 22 September](#)

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