



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	The Netherlands
<b>Title:</b>	CERD recommends to eliminate those features of Black Pete which reflect negative stereotypes
<b>Date:</b>	2 September 2015
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<b>Update of flash report nr:</b>	1299-NL-96; 1336-NL-100
<b><u>Context</u></b>	
<b>Issue at stake:</b>	CERD Concluding Observations on the Netherlands published
<b>Ground of discrimination:</b>	Race/ethnic origin
<b>Source:</b>	Miscellaneous
<b>Field:</b>	Other
<b>Applicable law:</b>	Criminal code

### **Content**

**Development:** In 2014, we reported on the debate in the Netherlands on the allegedly racist character of "Zwarte Piet" (Black Pete), one of the central figures in the Dutch *Sinterklaas* festivities. Black Pete's black face, red lips and curly hair led opponents to argue that he forms an offensive caricature of black people and a throwback to slavery. On 12 November 2014, the Council of State (the highest administrative court of the Netherlands) ruled that mayors, when deciding on whether or not to grant a permit for public *Sinterklaas* festivities, are not empowered to take into account whether Black Pete would stereotype black people; instead, mayors are limited to evaluating the effects of the festivities on public order and security.<sup>1</sup> That same month, the Netherlands Institute for Human Rights (NIHR - "College voor de Rechten van de Mens") found in a non-binding opinion that the *Sinterklaas* festivities do indeed contain discriminatory features. In a case lodged by a parent against a primary school board, the NIHR found that schools have a duty of care to ensure that discriminatory stereotypes are removed from the Black Pete figure.<sup>2</sup>

Since then, the debate has continued, as a large part of the Dutch population remains opposed to any changes in what they perceive to be an important part of Dutch cultural heritage. This debate was fuelled again after the UN Committee for the Elimination of Racial Discrimination (CERD), on 28 August 2015, published its Concluding Observations on the Netherlands, calling upon the State party to eliminate "those features of Black Pete which reflect negative stereotypes", recommending to "find a reasonable balance, such as a different portrayal of Black Pete". The Committee asserts to understand that the tradition of *Sinterklaas* is enjoyed by many in Dutch society, but simultaneously

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<sup>1</sup> The Council of State's judgment may be found at:  
<http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RVS:2014:4117>.

<sup>2</sup> The NIHR's Opinion 2014-131 may be found at:  
<http://mensenrechten.nl/publicaties/oordelen/2014-131>.

stresses that “even a deeply-rooted cultural tradition does not justify discriminatory practices and stereotypes”.

The CERD report breathed new life into the Black Pete discussion. In a reaction, Prime Minister Mark Rutte stated, as he did before, that it is not up to the Dutch government to decide on the content of any celebration or cultural manifestation. Thus, while many of the Committee’s recommendations may eventually be followed (such as its advice to pay more attention to slavery in history classes), it seems improbable that the CERD’s advices on this matter will result in concrete policy measures by the Dutch government.

Reactions in Dutch society varied widely, ranging from indignant to approving. Meanwhile, the character of Black Pete is subject to changes in many communities, for example the removal of his curly hair and earrings and sometimes also changing his colour (in Amsterdam, for example, this year half of the Black Petes will only have a couple of smudges of soot on their cheeks). The government’s reluctance to interfere in the debate on Black Pete (other than Minister Asscher’s attempts at facilitating dialogue) implies that this autumn will be filled with heated discussions on racism, discrimination and national identity again. Clearly, the last word has not been said on this subject.

**Key points of analysis:** The UN Committee for the Elimination of Racial Discrimination (CERD), on 28 August 2015, published its Concluding Observations on the Netherlands, calling upon the State party to eliminate “those features of Black Pete which reflect negative stereotypes”, recommending to “find a reasonable balance, such as a different portrayal of Black Pete”. It seems improbable that the recommendations will result in concrete policy measures.

**Internet link source:** The CERD’s Concluding observations on the nineteenth to twenty-first periodic reports of the Netherlands can be found online at:  
[http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/NLD/CERD\\_C\\_NLD\\_CO\\_19-21\\_21519\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/NLD/CERD_C_NLD_CO_19-21_21519_E.pdf) Last accessed 2 September 2015.