Dear members of the Human Rights Committee, dear Rapporteur,

Thank you for the opportunity to give the Amsterdam perspective on the revised draft on General Comment no. 37.

Amsterdam wants to be a frontrunner in the field of human rights as codified in the Universal Declarations of Human Rights and appreciates deeply the efforts of your Committee to make sure these articles are implemented and the context of these Articles updated, as has been done by drafting this general comment.

**Amsterdam comments to the revised draft General Comment No. 37**

On behalf of the Mayor of Amsterdam we want to thank you for this opportunity to deliver some perspective about what we find important principles concerning the freedom of assembly.

Let me start with clarifying the Dutch legal structure concerning the freedom of assembly. In the Netherlands the central government has no say in how the local authorities deal with demonstrations. In the Netherlands the Mayor is responsible for safeguarding the freedom of assembly and is the “commander in chief” for maintaining public order. The local prosecutor is responsible to enforce criminal law, when necessary also within an assembly. Together with the police they form a deciding local body that deals with assemblies.

In Amsterdam we had 1446 notifications of demonstrations announced in 2019 and (as we have stated in our contribution in Geneva on the 20th of March 2019) by every single one of them we live by and act by four key principles.

These are:

1. The purpose of the state is safeguarding freedom. This quote of Baruch Spinoza – who lived in Amsterdam in the 17th century - is the main principle of the city of Amsterdam in this regard. This means we need to ensure the freedom of assembly because it is simply the duty within a true democracy to do so.

2. The sight and sound principle: The European Court on Human rights has determined that demonstrations should be allowed at places where the demonstrators can be seen and heard.

3. Hands off the content: No judgements should be made with regard to the message of a demonstration. We must not only accept that people think and say awful things, we should actively protect their rights to do so, within the boundaries of the Law. (\*)

4. Protection: Our democracy is strong precisely because it allows opposing and even provocative and noisy expressions. This is something to protect. At the same time, based on the principle of protection, boundaries must be enforced as directly and as visibly as possible. Those who are entitled to protection should be protected. Those who violate rights should know that they have crossed a boundary. That boundary is the law, and no demonstrator is above the law.

We are impressed by the comments made and welcome the general opinion that is expressed in the chapters and paragraphs. Annexed the Revised Draft with a few comments in the text itself.

In addition we have some specific remarks concerning 6 paragraphs and 1 chapter:

• On Paragraph 15: The formal Dutch legal structure applies to demonstrations that involve two or more people. If there is an assessment that for example public order issues could occur during such demonstrations we can take proper legal issues to cope with them. Nevertheless, In Amsterdam we see a rise in protests that are held solely by one person but despite the lack of people can be a potential threat of public order and security. An example is a pedophile that publicly addresses support for his right “to love kids” during a large scale event. These kinds of one person protests occur often without crossing the boundaries of the criminal law, so that we as local body cannot act on it. We would like to ask the Human Rights Committee if the one person protests are also occurring in other member states and if other members of the committee feel this topic should be addressed more in depth.

• On paragraph 57: In many European and US cities we see a rise of extreme right wing movements that sometimes advocate racial hatred or other forms of discrimination. Are we correct in interpreting the draft that the Committee would like to ban these assemblies? We are uncertain whether this is the effective approach to deal with these movements and the underlying social issues. Naturally, the law should be observed and if expressions during these kinds of assemblies are unlawful, the perpetrators should be arrested. To prohibit the entire assembly is in our opinion not in accordance with Dutch Law. We therefore also – in accordance with “Opinion 2” believe that paragraph 22 should be deleted.

• On paragraph 62: In general we agree that frequency of a demonstration should not play a role in limiting them in time or place. Nevertheless, in Amsterdam we have a very popular square (De Dam) that is sometimes taken over by 6 demonstrations during the same time. To protect everyone’s right to assembly we are now preparing limitations on those organizers that are coming on a (sometimes) daily basis.

• On paragraph 75: We believe the responsibility of the organization also covers the scope of informing the participants of the demonstration on the legal boundaries and limitations given by the local authority. For example, if a participants act aggressively, we first inform the organizer or the Marshall and request him/her to act towards this participant.

We prefer this instead of direct policing towards the aggressive participant and often this helps to de-escalate the situation. Furthermore, the lack of responsibility and organizational structure of some movements can complicate the facilitating of a peaceful demonstration: Groups as Occupy, Extinction Rebellion, Yellow Jerseys have no traditional structure and are movements without specific leadership. This complicates the preparation process where we as a government would like to discuss how we can protect their rights and the rights and freedoms of others, while they cannot provide us with a spokesperson that speaks and acts on behalf of the movement.

• On paragraph 82: Although fully agreeing which is stated in paragraph 80, 81, 83 and 84, we feel strongly that – as we have 1446 notifications a year – the notification requirement should be a general requirement, first and foremost to protect the right of assembly itself. Especially small or spontaneous gatherings can be less well protected if the local authorities have now knowledge of it. In a city like Amsterdam, we can only protect if we know beforehand what demonstration is going to be held. Therefore we do not agree that the notification requirement should not be applied on spontaneous demonstrations or demonstrations with a minimal impact. We believe the local authority should always be in a position to make that assessment and we have a simple online tool to notify your assembly (with a minimum of 24 hours ahead) available 24/7 for everyone.

• On chapter 7: The interference of foreign state actors can also be present without having an armed conflict. In Amsterdam we have experienced foreign governmental interference in how we on a local level are dealing with protesters (that are against these State Actors). We would like to encourage the Human Rights Committee to address this issue and the undesirability of it.

• On paragraph 114: Although we agree in principle, this can be explained as in contradiction of “content neutral” as you have elaborated in paragraph 54.

Again we thank you for the opportunity to contribute to this important task.

On behalf of Taco Temminck Tuinstra

Kind regards,

Sabine Gimbrère

Director of the International Office