Dear David Kaye,

The Netherlands replies to the questionnaire related to your first report to the United Nations General Assembly. Please find attached the answers.

1. Currently, the Netherlands is in the process of adopting a new law on the protection of journalistic sources. It is expected that this law will be adopted early next year. (2016)

This new Law contains the term ‘publicist’ instead of the traditional term ‘journalist’ and extends the scope of this law to persons who contribute to the political/social debate on current developments in society.

Furthermore, the Dutch Supreme Court directly applies the ECHR’s judgment in Goodwin. Until the Goodwin decision, Dutch law did not recognize any general right to the protection of confidential journalistic sources. After this decision, the Supreme Court acknowledged such a right in civil proceedings in accordance with art. 10(1) ECHR.

1. **Protections for whistleblowers in the public sector of the Netherlands:**

* Our Civil Servants Act requires “procedures for civil servants to deal with suspected malpractices within the organization where they are employed” (125 quinquies of the Civil Servants Act; an English version is included).
* To implement this task, specific regulations that each cover specific parts of the public sector have dedicated legislation to protect whistleblowers in the public sector. For civil servants of the central government and for the police sector, the protection of whistleblowers is regulated in the “Besluit melden vermoeden van misstand bij Rijk en Politie”.  This Decree contains reporting procedures and protection measures for public servants who report suspected malpractice. A civil servant who reports suspected malpractice in good faith in accordance with the procedure, may not suffer disadvantages either during the course of the procedure or afterwards as a result of reporting his suspicions.
* All public sector employees are afforded whistleblower protection, including:  
  - temporarely employees in the public sector;  
  - former public servants;  
  - employees in the public sector appointed under civil law contracts of employment at a mission of    the Kingdom abroad.
* How to report a suspected malpractice:  
  Our guiding principle for reporting suspected malpractices, is:  
  1. first report the relevant facts internally, if necessary up to the highest level, unless this cannot be reasonably expected of him or her or is contrary to the public interest.  
  2. If an employee cannot reasonably be expected to report facts internally, the potential whistleblower can make the facts known externally in an appropriate manner commensurate to the situation. There is a specific whistleblower complaints body for the public sector, the ‘Onderzoeksraad Integriteit Overheid’ (Council on Integrity in the public sector, former name: ‘Commission on Integrity in the Public Service).    
  3. In the Netherlands there are many different bodies to whom reports of malpractice or wrongdoing can be reported. The National independent Advice Point can advise potential whistleblowers which body is most suited to receive his or her report.  
  Finally reporting suspected malpractices to the media is indeed a very last resort. If the malpractice persists despite repeated reports a situation may arise in which the employee will be justified to contact the media in that case. This tiered approach is seen in case law.
* Confidentiality:  
  The whistleblowing procedure for civil servants contains an obligation for all civil servants/officials within the organization who are involved in handling a report of malpractice to protect the identity of the whistleblower if he so wishes.
* Provision for financial compensation:  
  We have no special fund or reward system for whistleblowers. However we do have possibilities for civil servants of the central government and for the police sector for financial compensation (legal fees) in article 23 – article 28 of the Decree regulating the reporting of suspected abuses in the civil service and the police. Regulations for public servants in other parts of the public sector also offer possibilities for whistleblowers to get financial compensation for legal fees.

**Provisions for whistleblowers in the public sector in the Netherlands:**

* Free advice and support;A provision for all whistleblowers in the Netherlands is the independent Advice Centre for Whistleblowers. This Advice Centre opened its doors in October 2012 and offers free advice and support to potential whistleblowers in the private and public sector. The Centre gives free advice on the practical steps they can take to raise their concern properly. The Advice Centre has no task or competence to examine, inspect or investigate cases. It creates a ‘safe haven’ for potential whistleblowers to get independent advice. Besides employees, freelancers, agency workers, former employees and suppliers can also come for advice. It is required that the interests of others are at risk; in other words, it must affect the public interest.   
  In the first half of 2014 the Advice Point is evaluated after two years operation. It is considered an ‘effective operating organization and as a valuable contribution to the existing whistleblowing provisions’.
* The possibility to report anonymously;We have a national trustline at “NL Confidential” (link: <http://www.nlconfidential.org/>) where whistleblowers in the public and private sector can report suspected malpractices in the public sector anonymously.  This is called ‘de Vertrouwenslijn’ and people can call 7 days a week ( 0800 2800 200  from 10.00-17.00 hours).
* Discussion in Parliament on a draft bill to further improve protection of whistleblowers:  
  Since 2011 a private member ‘s bill is discussed in Parliament to improve the protection of whistleblowers (this draft bill is called “House for Whistleblowers”). This bill aims to establish an institution where wrongdoing can be reported and investigated. This bill will also provide legal protection for whistleblowers in the public sector and in the private sector. The discussion on this bill has moved further on since 2011 and an improved version of the bill is now expected to be discussed in the House of Representatives in 2015.