

To the members of the Defence Commission,

On Thursday 3 November, you will speak with the Minister about the progress and evaluation of Dutch military missions. This conversation also includes policy regarding civilian casualties from Dutch military operations and the impact of the 2015 airstrike on Hawija. We want to bring several matters to your attention in preparation of this debate. Sources with more detailed information are included at the end of the letter. We hope you will raise these matters during the debate.

On behalf of Airwars and PAX, yours sincerely,

Jip van Dort

Politiek adviseur PAX

06-45610067



Constructive dialogue

In the years following the revelation of the long kept silent Dutch responsibility for the many civilian deaths (at least 85) in Hawija, Iraq in June 2015, a constructive dialogue has taken place between the Ministry of Defence and civil society, including Airwars and PAX, which is much appreciated. The Minister of Defence has now indicated that she wants to give a new impulse to the protection of civilians in armed conflict and to transparency concerning civilian casualties. A number of steps have already been taken in this regard, as announced in April in the Minister's roadmap letter, including new standard attention for both the risks of and the options for minimising civilian casualties during military deployment, the fact that more information will be provided in advance about how transparency, investigation and compensation of civilian casualties is organised, and the intention to invest in more knowledge about protection of civilians and civilian harm mitigation.

- Airwars and PAX encourage the Ministry and the Parliament to continue along the same path, whereby it is important that clear deadlines are formulated for the steps mentioned in the Minister's letter and that Parliament is informed about progress on a regular basis, to enable oversight and monitoring. Parliamentarians, such as yourself, and civil society groups should be included in the implementation of the short- and medium- terms goals outlined in the roadmap process, as well as the development of the long-term goals. Lessons can be learned from similar steps that are now being taken in the US through its Civilian Harm Mitigation and Response Action Plan (CHMR-AP), which is a significant review of the approach to the protection of civilians and ways in which civilian harm is tracked and assessed.

Transparency

Despite a number of positive developments, many improvements can and must still be made. As far as transparency is concerned, it remains problematic that, because of 'security interests' that are difficult to define and verify, information can still only be shared on a confidential basis with Parliament, which complicates democratic control. This problem is exacerbated by the government's rejection of a commission that can independently assess whether information regarding civilian casualties is rightly withheld. Furthermore, the Netherlands refuses to formulate minimum transparency standards for participation in a military operation, which means that there are still risks that rules in a future military coalition will prevent sufficient transparency and thus unnecessarily restrict democratic control.

- As far as Airwars and PAX are concerned, the Netherlands should not be in a position where it may again withhold information about civilian casualties for years or point to a military coalition to justify a lack of transparency. There must be an independent review on whether there is good cause to withhold information and there must be minimum transparency standards developed for participation in military operations.

Looking back

The Netherlands carried out 2,100 air strikes in the war against Islamic State (IS). Two cases of Dutch responsibility for civilian casualties are known – Hawija and Mosul (where four civilians were killed). Information has been shared about the 2,098 other attacks, but not in a very detailed manner. As a result, it is still not possible to determine how the Dutch airstrikes relate to information about civilian casualties collected by monitoring organisations like Airwars. At times, this results in situations where MPs are more likely to find information about Dutch responsibility for civilian casualties from allies, than from their own Ministry of Defence.

- The minister's letter looks ahead, but Airwars and PAX also consider it important to look back. This Netherlands should release more precise information, according to current open data standards, about the use of force against IS, namely: date, target and near location of all airstrikes. They should clarify how they will work with partners such as Airwars to understand the impact of these strikes on civilians, and what mechanisms are in place for compensation for those affected.

Investigation framework

The minister's Roadmap letter includes a promise to broaden the Defence research framework in the event of (suspected) civilian casualties as a result of own use of force. This is positive, but details about implementation remain unclear. Only by making several investments, can the promise to better inform Parliament in the future actually be met.

- Airwars and PAX consider it essential that more structural attention is paid to non-military sources in investigations into suspected civilian casualties, that there are witness interviews and, where possible, on-site investigations. Lack of these has been repeatedly cited by critics as a cause for militaries overlooking civilian casualty incidents. Investments must therefore be made, among other things, to enable personnel to monitor civilian casualties and to investigate trends in incidents. At the same time, there must be transparency on the thresholds involved in civilian harm assessments, such as the threshold of evidence required to trigger an investigation of alleged civilian harm by the Ministry of Defence, or the threshold of evidence required for an allegation to be deemed credible.

Civilian casualty fund

According to the Minister of Defence, the Netherlands can decide to offer voluntary compensation if this is considered "reasonable". In the past, victims of Dutch military operations were sometimes compensated, sometimes they were not. There is no standard practice for dealing with civilian casualties, although the minister has fortunately indicated that there are no financial objections to implementing a standard practice.

- Airwars and PAX believe that compensation for civilian casualties and their relatives is invariably reasonable, both in the event of loss of life, injuries and material damage, and therefore advocates setting up a civilian casualty fund as previously set up in the US.

Hawija

Research by PAX, the UU and Al-Ghad into the airstrike on Hawija shows that there were more deaths than previously believed, but also that the damage is even more immense. The airstrike resulted in hundreds of serious injuries, with many civilians reporting ongoing serious physical and/or psychological harm. In addition, damage has been reported to as many as 1,200 businesses and shops and 6,000 homes. PAX appreciates that the Dutch are financing some rehabilitation work for the community in Hawija, but also notes that this is disproportionate to the enormous suffering and devastation.

- Much more is needed to really provide amends to citizens in Hawija, preferably through individual compensation and apologies.

Sources

- [The Dutch MoD announces policy changes regarding civilian harm](#), 20 April 2022.
- [After Hawija: The way forward for the Dutch Ministry of Defense](#), 1 July 2021.
- ['Bij een groter budget van de krijgsmacht hoort ook een fonds voor burgerslachtoffers'](#), 13 September 2022.
- [After the strike; Exposing the civilian harm effects of the 2015 Dutch airstrike on Hawija](#), 8 April 2022.
- [Nieuw beleid burgerslachtoffers in VS: 3 lessen voor Nederland](#), 6 October 2022.