Letter of October 3, 2012, from the Minister of Security and Justice to the House of Representatives of the States General of the Netherlands

I am writing to inform you that in the United States several members of Congress have requested information about allegations that have been posted on a number of websites about the Secretary-General of my ministry. The allegations relate to matters about which I have previously informed the House, most recently in my letter of 2 February 2012 (Parliamentary Papers, HR 2011/2012, 33000-VI nr. 80), where I reported on both the decision by the Public Prosecution Service not to institute an investigation into the Secretary-General, and the reasons on which it based that decision.

Since then a number of people associated with the campaign against this official have broadened their focus. They now insinuate that the Netherlands' failure to punish these alleged serious offences shows that the rule of law is no longer properly respected in our country. Furthermore, the campaign has caught the ear of a number of members of Congress, who have asked our embassy in Washington for information regarding the accusations. The issue has now found its way onto the agenda of a briefing for a federal government commission.

My colleague the Minister of Foreign Affairs has since taken the necessary steps to inform the US authorities as thoroughly as possible about the matter and the legal remedies available in our legal system to individuals who believe they have been victim of a serious offence. In that connection I would like to make a number of observations.

As to the rumours and allegations regarding the Secretary-General, which have been circulating for years, my predecessors and I have always taken the position that the nature of his job warrants a degree of vigilance. What had to be investigated has been investigated. The outcome of these investigations has always been that the rumours and allegations are utterly baseless.

As is customary for senior positions like that of Director-General and Secretary-General, the General Intelligence and Security Service (AIVD) has regularly investigated whether there were any objections that would prevent the individual concerned from holding this job. These investigations offer an excellent opportunity for assessing the validity of any rumours that might arise, and they have always led to the issue of a declaration of no objection in respect of the individual in question.

In 2007 publications appeared about alleged acts on the part of the official concerned, in connection with a criminal complaint that had been lodged against him. In response to questions from parliament on this matter, the then Minister of Justice stated that the complaint gave the Public Prosecution Service no cause to launch a criminal investigation, or to consider this individual a suspect (letter of 4 July 2007, Appendix to the Proceedings of the House of Representatives 2006/2007, 2109). In that same letter the Minister also made reference to the judgment of 25 June 2007 of the president of The Hague District Court, who ruled that it had not been established in the course of interim injunction proceedings that the civil servant in question had committed the serious offences of which he was accused. In response to an additional question the Minister indicated that the civil servant in question was not even mentioned in an investigation by the National Police Internal Investigations Department that had taken place in the late 1990s. The Minister concluded that both old and new accusations against this person had been found to be utterly baseless.

In 2007 the then Minister of Justice informed the House of the results of a preliminary investigation prompted by a criminal complaint that had been lodged against the official in question alleging that he had performed sexual acts with minors (letter of 13 July 2007, Appendix to the Proceedings 2006/2007, 2295). The Public Prosecution Service concluded that there were insufficient grounds for ordering an investigation or instituting criminal proceedings. The Minister came to the conclusion that nothing had been found to substantiate the accusations.

On 2 June 2008, a complaint pursuant to article 12 of the Code of Criminal Procedure was lodged with The Hague Court of Appeal. The Court of Appeal investigated the complaint and by judgment of 17 October 2008 declared part of the complaint inadmissible and the rest unfounded.

My letter of 2 February 2012 informed the House of a further criminal complaint against the official in question, alleging sexual abuse of a minor in Turkey. I also informed the House of the decision of the National Public Prosecutors' Office that a criminal investigation would not be instituted. The Public Prosecution Service based this decision on an investigation by the National Police Internal Investigations Department. There was reasonable doubt as to the reliability of this criminal complaint, which was lodged in 2011; in addition the National Police Internal Investigations Department had waited for several months for a second person who was supposed to make a statement concerning similar offences. However, this statement was not forthcoming.

As is customary with criminal complaints of this nature, the complaint was put before the Exceptional Sex Offences National Expertise Group (LEBZ), which concluded in a report of June 2011 that the story in the complaint was inconsistent and was not detailed enough in several places. The LEBZ considered that it could not be established that the complaint was reliable. However, in view of the nature of the offences concerned and the seriousness of the accusations, the National Police Internal Investigations Department did conduct a preliminary investigation of the facts, in which it looked into the official's travels, if any, in Turkey in the relevant period. This investigation yielded no confirmation whatsoever that the official had been in Turkey at the time in question. In addition to the official himself, the National Police Internal Investigations Department questioned a number of witnesses, and investigated official trips and passports for the relevant period.

The Public Prosecution Service informed the person who lodged the criminal complaint of its decision and that it was possible to file a complaint against this decision with the Court of Appeal in The Hague.

I stand by the conclusion I expressed in my letter of 2 February 2012, namely that nothing has been found to substantiate the accusations levelled at the official in question.

The Minister of Security and Justice,

I.W. Opstelten