



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 44 of the Convention

Fourth periodic reports of States parties due in 2012

**The Netherlands\***

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\* The present document is being issued without formal editing.

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Annexes\*

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\* Annexes can be consulted in the files of the Secretariat.

## Introduction

1. The Kingdom of the Netherlands signed the Convention on the Rights of the Child (CRC) on 26 January 1990. The CRC entered into force in the Netherlands on 8 March 1995, and on the islands of the former Netherlands Antilles on 16 January 1998. On 17 January 2001 the CRC entered into force on Aruba.
2. The initial reports date from 15 May 1997, 22 January 2001 and 29 January 2002 (for the Netherlands, the Netherlands Antilles and Aruba, respectively). The Committee on the Rights of the Child considered the third periodic report of the Netherlands and the former Netherlands Antilles and the second periodic report of Aruba on 30 January 2009. Pursuant to recommendation 84 these reports, including written responses and recommendations, have been made widely available to the public at large.
3. This report by the Kingdom of the Netherlands is submitted in accordance with article 44, paragraph 1(b) of the CRC. It updates previous reports and describes policy measures taken in the period October 2006 – December 2012 to implement the Conclusions and Recommendations in the Concluding Observations of the Committee on the Rights of the Child (CRC/C/NLD/CO/3).
4. The Kingdom of the Netherlands consists of four countries of equal status. Each of these countries is autonomous when it comes to the implementation of the CRC. The report is therefore divided into different sections describing the children's rights policy pursued in the various parts of the Kingdom.
5. Pursuant to recommendation 86 the Kingdom of the Netherlands is examining the scope for eventually submitting a Common Core Document which covers all four countries of the Kingdom in detail. Since the experiences of States Parties that currently use a common core document have not been universally positive, the Kingdom intends to await the outcome of the present debate within the United Nations on reforming the treaty bodies before commencing the use of a common core document.

### Constitutional restructuring

6. Since the last report the Kingdom of the Netherlands has undergone a process of constitutional restructuring. This concerned the former Netherlands Antilles, which consisted of the islands of Curaçao, St Maarten, Bonaire, St Eustatius and Saba. The reforms were based on referendums and decisions by the parliamentary assembly concerning the constitutional future of the country. Except in the case of one island, the result of the consultation process was clear: the islands no longer wished to be part of the Netherlands Antilles, but nevertheless wished to retain their ties with the Kingdom.
7. An agreement was reached concerning the new constitutional relations within the Kingdom. It was decided that the amended Charter for the Kingdom of the Netherlands would enter into force on 10 October 2010. Since that date, the Netherlands Antilles has ceased to exist as a country.
8. Under the new structure, Curaçao and St Maarten have acquired the status of countries within the Kingdom, similar to Aruba, which has held the status of country within the Kingdom since 1986. As a result, since 10 October 2010 the Kingdom has consisted of four rather than three countries of equal status: the Netherlands, Aruba, Curaçao and St Maarten. All have a large degree of internal autonomy.
9. The three other islands – Bonaire, St Eustatius and Saba – opted for direct ties with the Netherlands and now constitute “the Netherlands in the Caribbean”. These ties took their new legal form with the conferment of the status of public bodies within the meaning

of article 134 of the Constitution. Their status is roughly equivalent to that of a municipality in the Netherlands, with some adjustments to reflect their small scale, their distance from the Netherlands and their location in the Caribbean. The vast majority of Netherlands Antillean law remains in force, in amended form, in these public bodies. The constitutional reform brought no change in terms of representation in foreign relations.

10. To clarify the situation, maps of the Kingdom of the Netherlands (1) and the Caribbean parts of the Kingdom (2) are shown below:

Figure 1

**Map of the Kingdom of the Netherlands**

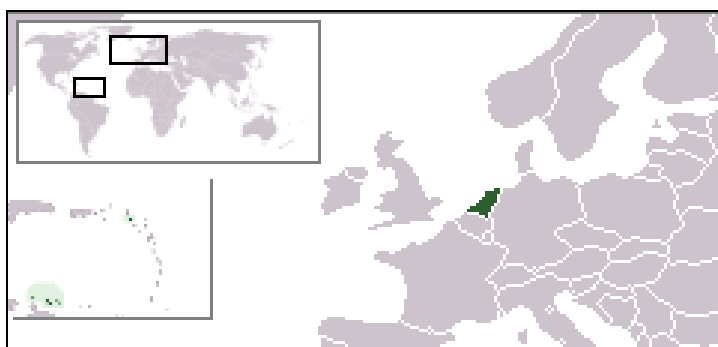


Figure 2

**Map of the Caribbean parts of the Kingdom**



Table 1

**Size and population**

<i>Country</i>		<i>Land area</i>	<i>Population</i>
Netherlands	European part	41,526 km <sup>2</sup>	16,727,255 (11/2011)
	Bonaire	288 km <sup>2</sup>	15,666 (2011)
	St Eustatius	21 km <sup>2</sup>	3,643 (2011)
	Saba	13 km <sup>2</sup>	1,824 (2011)
Curaçao		444 km <sup>2</sup>	150,563 (2011)
Aruba		180 km <sup>2</sup>	106,050 (2008)
St Maarten		34 km <sup>2</sup>	37,429 (2010)

*Source:* Statistics Netherlands and Central Bureaus of Statistics of Curaçao, Aruba and St Maarten.



11. Countries are individually responsible for implementing obligations stemming from international treaties. With due regard for this individual responsibility, the Dutch government supports the other countries in the Kingdom, in response to recommendation 19, in the field of children's rights through cooperative programmes and by other means.

12. For instance the Education and Young People Programme (OJSP) and the accompanying action plan for Curaçao and St Maarten focus on compulsory schooling, combating dropout, achieving a better match between education and the job market, and promoting the active involvement of parents with their children. Other projects, for instance in the area of poverty reduction, parenting support, sport and neighbourhood renewal are funded within the framework of the Socio-Economic Initiative (SEI). Grants are provided for school meals, the food bank, after-school childcare and foster care through AMFO, a cofinancing organisation for the former Netherlands Antilles.

13. In addition, the Dutch Representation in Aruba, Curaçao and St Maarten also supports specific grant applications, including those for small projects and projects on children's rights. For instance, the office in Aruba provides grants to the Childline telephone counselling service, an NGO that runs activities for physically and mentally disabled children, and a children's home that trains its staff with the aim of ensuring openness and good communication at work. In Curaçao, the Foundation for Combating Child Abuse also recently received financial support to run an information service.

## **Part one**

### **The European part of the Netherlands**

#### **Executive summary**

14. Every year, some 180,000 children are born in the Netherlands. The country is home to over 3.5 million children under the age of 18. The vast majority of these children (some 80%) are faring well. Around 15% of the children are deemed "at risk", and in need of care or support, at some point in their childhood. Approximately 5% receives specialist care for mild learning disabilities, psychological disorders or severe social problems.

15. The ambition of the Netherlands is for children to be able to grow up safely and healthily, develop their talents and participate in society. Young people should learn to take responsibility for themselves and their environment and be able to participate in society according to their ability. Parents bear primary responsibility for raising their children. If they are unable to cope themselves, the authorities come into the picture. At that point the youth care system must respond rapidly and appropriately with tailored measures so that no child is sidelined.

16. All the efforts of parents, professional educators and the authorities are focused on ensuring that our children:

- (a) Grow up safe and healthy: every child has the right to grow up in a safe environment;
- (b) Can develop their talents; and
- (c) Participate according to their ability: in other words, that children build up a social network through play, education and work, giving them a good basis for an independent existence, and enabling them to contribute to society.

17. These are the basic principles of the youth policy with which the Kingdom of the Netherlands implements the Convention on the Rights of the Child. Issues are dealt with on an intersectoral basis. From 2007 to 2010 this occurred under a Ministry for Youth and Families (interministerial programme), and since October 2010 it has been overseen in special consultations between the Ministers and State Secretaries with responsibility for Health, Welfare & Sport, Education, Culture & Science, Security & Justice, and Social Affairs & Employment. The report shows that a number of improvements have been made in the period under review, partly in response to the Committee's Recommendations. The most important improvements have been:

18. Promotion of children's rights:

- In accordance with the Paris Principles, in 2011 and 2012 two new national institutions were established to independently oversee observance of children's rights and human rights in the Netherlands. A Children's Ombudsman took office on 1 April 2011, and the Netherlands Institute for Human Rights was launched on 1 October 2012.
- The establishment of these institutions, particularly the Children's Ombudsman, and also a civil-society initiative that in 2010 led to the Netherlands' first Child Rights Home, has greatly enhanced the focus on children's rights in the Netherlands. The centre, which houses several children's rights organisations, is located in Leiden. This centre of excellence on children's rights plays host to activities associated with children's rights organised by and for children.
- The Ministry of Health, Welfare and Sport is subsidising the NGO Coalition for Children's Rights in its activities designed to publicise the Convention and its contents, which include the popular website [www.kinderrechten.nl](http://www.kinderrechten.nl).

19. Participation by children and young people:

- Research conducted by UNICEF in 2007 and 2010 found Dutch children to be among the happiest in the world. The basic principle of policy is that all children should be able to grow up safe and healthy, develop their talents and contribute to society. Various initiatives are in place to give young people a say and increase their participation in several areas.
- Good examples include the annual National Youth Debate in parliament and the award presented each year (known as the *Jong Lokaal Bokaal*) to the local authority that has done most to promote youth participation and has the most positive youth policy.
- In response to the economic crisis, in 2009 the Ministry of Health, Welfare and Sport, the Ministry of Education, Culture and Science and the Ministry of Social Affairs and Employment drew up a Youth Unemployment Action Plan to minimise the impact of the crisis on (vulnerable) young people. At 7.4% (2011), youth unemployment in the Netherlands is below that of other European countries.

20. Preventing the need for care:

- Children have a right to a good, healthy upbringing. A drastic change to the youth care system should simplify the way care and support are provided to young people. Parents with questions about parenting and child development can contact their municipality's Youth and Family Centre, giving them access to appropriate help more quickly and at an earlier stage if they are unable to cope themselves. A system entitled "No Child Sidelined" supports children and helps them contribute to society.
- The aim is for children to grow up in a healthy, stimulating environment where they, their parents and others involved in their upbringing can get answers to questions

about parenting and child development. The main changes in the youth care system are designed to provide support at an earlier stage, tailored provision, and better coordination on family issues. In addition, support should take count of the client's own ability to cope, problems should not always be treated as medical and professionals should be given greater scope to do their job. Under the Coalition Agreement, all youth support and care services are being decentralised to municipalities, both administratively and financially. This should enable local authorities to develop integrated policy and provide tailored care services attuned to the local situation and the needs of individual children, young people and parents.

- A new policy document on prevention in healthcare ("Health Close to Home") has set new priorities. The focal points are promoting a healthy lifestyle and more exercise for children and young people. As an extension of this policy, attention is also focused on reducing obesity, depression, diabetes, and drug and alcohol use, and on sexual health.

21. Services for children:

- All children in the Netherlands are covered by the Compulsory Education Act and may attend school, irrespective of their status. This includes children with missing or incomplete residence documents, asylum seekers and unaccompanied children.
- Besides non-means tested child benefit, parents/carers can apply for a means-tested child allowance. This is a contribution towards the costs of raising children up to the age of 18. The level of the monthly payment depends on the number of children in the household and the household income.
- Universal healthcare insurance was introduced on 1 January 2011, covering all residents of both the European and Caribbean parts of the Netherlands for the costs of basic medical care. Children under the age of 18 do not pay any premium for their insurance.
- In principle, access to services is dependent on lawful residence in the Netherlands. However, there are three exceptions: education for children of compulsory school age, legal aid and emergency medical care. Aliens residing unlawfully in the Netherlands are excluded from the obligation to obtain medical insurance. Medical care is available however, provided it is paid for by the patient. Healthcare providers have a professional responsibility to provide care that is medically necessary.
- Since 1 January 2009 disabled people have been able to claim for the costs of the aids and technical equipment they need to enable them to attend mainstream education.
- In 2008 and 2009 the Ministry of Social Affairs and Employment provided funding via municipalities to help families participate in such things as sport, cultural events and out-of-school activities.
- On 1 January 2012 municipalities were obliged to issue a bye-law on child participation. The objective is to ensure that children have opportunities to grow and develop through participation in society and are not hindered in this by the financial position of their parent(s). Municipalities are required to contribute by pursuing a policy aimed at providing income support for parents of schoolchildren.

22. Protection of children:

- Parents have a right and an obligation to care for and raise their children as they see fit. The authorities may not intervene in a family situation without good cause. On the other hand, however, children have a right to wellbeing, development and freedom from abuse. If parenting problems arise that threaten the development of the

child, and the parents refuse support, the government is obliged – in the interests of the child – to institute child protection measures as a framework for providing the necessary support for parents and child.

- A bill for the review of child protection measures is currently (2013) before the Senate. In accordance with the CRC, it focuses on the child's right to healthy and balanced development and growth to independence.
- At the end of 2011, the Ministry of Health, Welfare and Sport and the Ministry of Security and Justice drew up a new action plan to tackle child abuse, which focuses on preventing, terminating and providing after-care for victims of child abuse and of child pornography as a form of sexual violence. Legislation providing for the domestic violence and child abuse protocol has entered into force in July 2013.
- Measures to prevent and curb child trafficking form part of the general policy on prevention of human trafficking. An anti-trafficking task force has been established, with a mandate lasting to 2014.
- The position of crime victims has been strengthened in recent years, thanks in part to the introduction of the Act of 17 December 2009 amending the Code of Criminal Procedure, the Criminal Code and the Criminal Injuries Compensation Fund Act to strengthen the position of victims in criminal proceedings (Bulletin of Acts and Decrees 2010, no. 1). Victim Support Netherlands also focuses particular attention on young people who have fallen victim to crime
- Detention of aliens is regarded as a last resort. Stringent restrictions have been imposed on the detention of alien minors and alien families with minor children since the introduction of a new policy in March 2011. Detention is possible only in certain strictly defined circumstances.
- Existing policy on unaccompanied aliens under 18 is reviewed and currently implemented. The aim is to provide quicker clarification of their prospects of remaining in the country. Preventing exploitation and abuse will remain a constant focus of attention. Though the safe houses will continue, they will be less "closed".

23. In recommendation 11 the Committee advises the Netherlands to reconsider its reservations to articles 26, 37 and 40. After studying the issue, the Netherlands has decided not to withdraw the reservations. This is discussed in paragraphs 310, 413-414 and 443-451.

24. Annex I shows where in the report your recommendations (CRC/C/NLD/CO/3) are addressed.

## **I. General measures of implementation**

### **Article 4 Changes in Dutch legislation**

25. Since the third report, the following (legislative) measures have been taken pursuant to recommendation 13:<sup>1</sup>

- Act of 8 March 2007 amending Book 1 of the Civil Code in order to help prevent the use of physical or mental violence against or any other form of degrading

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<sup>1</sup> A complete list can be found in annex II.

treatment of children in care and education (Bulletin of Acts and Decrees 2007, no. 145);

- Act of 1 November 2007 containing rules concerning entitlement to a means-tested allowance for the costs of children (Means-Tested Child Allowance Act, Bulletin of Acts and Decrees 2007, no. 418);
- Act of 20 December 2007 amending the Youth Care Act with regard to youth care provided under the law in a closed setting (closed youth care) (Bulletin of Acts and Decrees 2007, no. 578);
- Act of 20 December 2007 amending the Criminal Code, the Code of Criminal Procedure and the Youth Care Act with a view to broadening the scope for influencing the behaviour of juveniles (Behavioural Change Programmes (Young People) Act, Bulletin of Acts and Decrees 2007, no. 575);
- Act amending certain provisions of Book 1 of the Civil Code concerning registered partnership, surnames and the acquisition of joint parental responsibility (Bulletin of Acts and Decrees 2008, no. 410);
- Act amending Book 1 of the Civil Code with a view to shortening the adoption procedure and amending the Placement for Adoption (Children of Foreign Nationality) Act in connection with joint adoption by married same-sex couples (Bulletin of Acts and Decrees 2008, no. 425);
- Act of 9 October 2008 containing rules for the imposition of a temporary domestic exclusion order on persons posing a serious threat of domestic violence (Temporary Domestic Exclusion Order Act, Bulletin of Acts and Decrees, no. 421);
- Act amending Book 1 of the Civil Code and the Code of Civil Procedure with a view to promoting shared parenting after divorce or separation and abolishing the right to convert a marriage into a registered partnership (Shared Parenting and Responsible Divorce and Separation Act, Bulletin of Acts and Decrees 2008, no. 500);
- Act of 25 June 2009 containing rules with regard to municipal services for the processing and registration of complaints concerning discrimination (Municipal Anti-Discrimination Services Act, Bulletin of Acts and Decrees 2009, no. 313);
- Kingdom Act of 26 November 2009, Bulletin of Acts and Decrees 2009 no. 543, approving the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse agreed at Lanzarote on 25 October 2007 (Dutch Treaty Series 2008, no. 58), and the Implementation Act (Bulletin of Acts and Decrees, no. 544);
- Act of 17 December 2009 amending the Code of Criminal Procedure, the Criminal Code and the Criminal Injuries Compensation Fund Act to strengthen the position of victims in criminal proceedings (Bulletin of Acts and Decrees 2010, no. 1);
- Act of 20 September 2010 amending the National Ombudsman Act in connection with the establishment of a Children's Ombudsman (Children's Ombudsman Act, Bulletin of Acts and Decrees 2010, no. 716);
- Act of 4 February 2010 amending the Youth Care Act in connection with the introduction of a register aimed at promoting the early and coordinated provision of assistance to, care for or guidance to at-risk juveniles running certain risks (register of at-risk-juveniles) (Bulletin of Acts and Decrees 2010, no. 89);

- Kingdom Act of 17 June 2010 amending the Netherlands Nationality Act with regard to multiple nationality and other issues concerning nationality law (Bulletin of Acts and Decrees 2010, no. 242);
- Order by the Minister of Health, Welfare and Sport of 26 November 2010, no. PG/CI-3021383, amending the Public Health (Bonaire, St Eustatius and Saba) Act pursuant to section 20, subsection 1 of the Public Bodies (Bonaire, St Eustatius and Saba) Implementation Act;
- Act of 13 December 2010 amending the Young Offenders' Institutions Framework Act, the Criminal Code, the Code of Criminal Procedure and certain other Acts in connection with modifications to the enforcement of juvenile custodial penalties (Bulletin of Acts and Decrees 2010, no. 818);
- Act amending the Placement for Adoption (Children of Foreign Nationality) Act in connection with the introduction of an Order containing rules regarding the payment of an allowance to adoptive parents for the costs of international adoption (Bulletin of Acts and Decrees 2011, no. 370);
- Act of 10 November 2011 amending the Act of 2 May 1990 implementing the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children concluded in Luxembourg on 20 May 1980, implementing the Convention on the Civil Aspects of International Child Abduction concluded in The Hague on 25 October 1980 and general provisions pertaining to applications for the return of children abducted across the border of the Netherlands and the implementation of the International Child Protection Implementation Act in connection with the revocation of the power of legal representation vested in the Central Authority in cases of international child abduction and child protection, and, in return cases, the concentration of jurisdiction, the conferral of authority on the courts to decide that an appeal in a return case has the effect of suspending return pending judgment, and limitation of appeal in cassation (Bulletin of Acts and Decrees 2011, 530);
- Act of 24 November 2011 establishing the Netherlands Institute for Human Rights (Netherlands Institute for Human Rights Act, Bulletin of Acts and Decrees 2011, no. 573);
- Decree of 22 January 2008 exploring the options for changing the behaviour of young offenders (Behavioural Change Programmes (Young People) Decree, Bulletin of Acts and Decrees 2008, no. 23);
- Decree of 3 September 2010 amending the Designation of HALT Offences Decree (Bulletin of Acts and Decrees 2010, no. 680);
- Decree of 13 July 2010 amending the Youth Care Act (Implementation) Decree in relation to the introduction of a register of at-risk-juveniles (Bulletin of Acts and Decrees 2010, no. 302);
- Decree of 16 June 2011 amending the Young Offenders' Institutions Regulations and the Juvenile Criminal Law (Implementation) Decree 1994, elaborating the Act of 13 December 2010 amending the Young Offenders' Institutions Framework Act, the Criminal Code, the Code of Criminal Procedure and certain other Acts in connection with modifications to the enforcement of juvenile custodial penalties (Bulletin of Acts and Decrees 2011, no. 304);
- Decree of 6 September 2011 regulating the processing of data in the interests of coherent youth care policy under the Youth Care Act (Policy Information (Youth Care) Decree 2011, Bulletin of Acts and Decrees 2011, no. 496).

## 1. Conventions

26. The Committee recommends in recommendation 82 that the State party ratify the core United Nations human rights conventions and the associated protocols to which it is not yet party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the Optional Protocol to this Convention, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

27. Pursuant to recommendation 79 the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (New York, 25 May 2000) was approved for the entire Kingdom of the Netherlands by Kingdom Act of 18 December 2008 and entered into effect for the entire Kingdom on 24 October 2009. The Dutch text of the Protocol was published in the Dutch Treaty Series, 2001, no. 131. At the time of this ratification, the Kingdom of the Netherlands comprised three countries: the Netherlands, the Netherlands Antilles and Aruba. The Kingdom of the Netherlands' initial report was submitted on 30 December 2011. The government will decide its position regarding signing and ratifying the Optional Protocol on a communications procedure in 2013.

28. The Kingdom ratified the International Convention for the Protection of All Persons from Enforced Disappearance on 23 March 2011 and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 28 September 2010, in both cases for the Netherlands.

29. The Netherlands does not endorse the recommendation that it become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Netherlands has for years objected to an important element of this Convention: namely the principle that migrants who are illegally present and/or are illegally employed in the country of their destination should be able to claim the same rights as those who are legally resident and/or legally employed there.

30. If persons who are illegally resident and/or unlawfully employed are automatically granted the same social and economic rights as persons who are legally resident and/or in lawful employment, this could have the unintentional effect of encouraging illegal residence and illegal employment. The assumption that the persons/employees concerned are merely victims of illegal residence and illegal employment fails to recognise their own responsibility for ensuring that they do not find themselves in a situation of illegal residence and/or illegal employment, and, should such nonetheless occur, for ending this situation as soon as possible.

31. The government is currently working on ratification of the Convention on the Rights of Persons with Disabilities. The government will decide on its position regarding the Optional Protocol to this Convention. Furthermore the government will quickly investigate the possible consequences of ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

## 2. Interministerial coordination

32. The State Secretary for Health, Welfare and Sport (VWS) bears primary government responsibility for youth policy and children's rights. The effects of measures impinging on the position of children are calculated in close cooperation between the ministries involved: VWS, Social Affairs & Employment (SZW), Education, Culture & Science (OCW), Security & Justice (V&J) and the Interior & Kingdom Relations (BZK). The

interministerial youth committee and a consultative committee at the level of government ministers are building on the impetus that the former Ministry for Youth and Families (February 2007-October 2010) injected into interministerial cooperation in youth affairs.

### **3. Monitoring**

#### **(a) Children's Ombudsman**

33. Since 1 April 2011, the Netherlands has had a Children's Ombudsman. This is a new, independent, national institution set up to address the observance of the rights of children and young people (up to 18 years of age). It was established in accordance with the Paris Principles, within the organisational structure of the National Ombudsman. The House of Representatives appointed Mr. Marc Dullaert as the Netherlands' first Children's Ombudsman on 1 April 2011.

34. The Children's Ombudsman advises Parliament and government authorities, and is also responsible for raising awareness of children's rights among adults, children and young people. The field of the Children's Ombudsman is government in general, but it also includes organisations that are active in youth care, education, child care and health care. In appointing a Children's Ombudsman, the Netherlands has followed recommendation 17.

35. The Children's Ombudsman bases his activities on the Convention on the Rights of the Child (CRC). His tasks are laid down in the Children's Ombudsman Act. These are:

- To promote respect for the rights of children and young people by administrative authorities and organisations set up under private law;
- To issue recommendations, upon request and on its own initiative, on legislation relating to the rights of young people;
- To actively inform the public on children's rights;
- To deal with complaints, not only about administrative authorities, but also about other organisations with responsibility for young people, such as schools, organisations providing child care, youth services, and hospitals;
- To investigate possible violations of children's rights in the Netherlands.

36. In accordance with recommendation 21, the Children's Ombudsman has set up an independent Children's Rights Monitor, which measures progress made by the Netherlands in the field of children's rights and will give the various parties insights into how to focus policy and input more effectively.

#### **(b) Human rights institute**

37. The Netherlands has established a national human rights institute. The Senate passed the relevant legislation in November 2011. The new Netherlands Institute for Human Rights is independent and is set up in accordance with the Paris Principles. The Institute opened its doors in October 2012.

38. The Institute's objectives are to protect human rights in the Netherlands, to increase awareness of these rights, and to promote their observance. It will do this for example by conducting investigations, by reporting on the human rights situation in the Netherlands, by cooperating on a systematic basis with civil society organisations and with national, European and other international institutions engaged in the protection of one or more human rights and by pressing for:

- The ratification, implementation and observance of human rights treaties and for the withdrawal of reservations to such treaties;



- The implementation and observance of binding resolutions of international organisations on human rights; and
- The observance of European or international recommendations on human rights;

39. With the exception of adjudicating on equal treatment cases, the Institute performs its tasks in Bonaire, St Eustatius and Saba as well as in the Netherlands in Europe.

**(c) Youth Monitor**

40. The Youth Monitor was set up to inform policymakers, researchers, and other interested parties about the situation of the country's young people. It contains indicators and lists publications about young people aged up to 25 across the entire spectrum of youth-related issues. Statistics Netherlands devised this Monitor for VWS. The website of the Youth Monitor has been online since the end of 2007.<sup>2</sup>

41. This website presents indicators and publications relating to young people aged up to 25. It distinguishes a range of subject areas: youth and families, health and welfare, education, employment, and security and justice. The Monitor provides information compiled at both regional and national level.

42. Since municipalities are playing an increasingly important role in youth policy, the Youth Monitor will also become an instrument that will follow and monitor developments in the municipal sphere of youth policy. At the end of 2011, a publication appeared entitled "Regional picture of Dutch youth, 2011", which reviews the situation of the country's young people by municipality.

43. The Youth Monitor does not deal with matters relating to sexual exploitation or human trafficking, but it does contain information on child abuse and youth services. The Ministry of Security and Justice also provides national data on juvenile crime and young people's sense of safety.

**(d) Register of at-risk juveniles**

44. The register of at-risk juveniles is enshrined in chapter 1A of the Youth Care Act. It is a nationwide electronic system that brings together indications that young people may be exposed to certain risks. This enables professionals who are helping, caring for or providing guidance to these young people to make contact, and to coordinate their efforts at an early stage. The register helps to tackle the problems of the young people concerned more focused and more efficient.

**(e) Tackling child abuse**

45. In 2010 the second National Incidence Study of the Abuse of Children and Young People, commissioned by the Ministry of VWS, was conducted by researchers at the University of Leiden and the Netherlands Organisation for Applied Scientific Research (TNO). The first such incidence study was carried out in 2005. Just as in 2005, the 2010 study consisted of two separate pieces of research, one based on cases reported by professionals in the field to Advice and Reporting Centres on Child Abuse (AMKs), and one based on information supplied by schoolchildren. The researchers conclude that the heightened attention given to child abuse in recent years has led to an increase in the number of cases reported, but not yet to any appreciable decrease in the number of victims. See Chapter V.I. for the action plan on child abuse and neglect.

<sup>2</sup> <http://jeugdmonitor.cbs.nl/nl-NL/menu/home/default.htm>.

46. For the new action plan on child abuse and neglect for 2012 to 2016, The State Secretary for Health, Welfare and Sport and the Minister of Security and Justice established a special Task Force in 2012. Its ambassadors monitor the implementation of the action plan with a critical eye, keep certain themes high on the agenda and encourage new promising initiatives.

47. In accordance with the recommendations of the National Rapporteur on Trafficking in Human Beings, the Rapporteur's responsibility regarding child pornography will be extended to the area of sexual violence against children, including child pornography.

48. Over the next few years, the Healthcare Inspectorate will inspect the entire healthcare system to see whether institutions have a domestic violence and child abuse protocol and whether their staff are trained in its use. The municipal healthcare sector (particularly adult psychiatry) will be scrutinised, especially in regard to adult patients with responsibility for children.

## **Article 42**

### **Publicizing the Convention**

49. The Dutch government has renewed its annual financial contribution to the Coalition for Children's Rights (KRC). The KRC is an umbrella organisation for civil society organisations in the field of children's welfare and rights in the Netherlands. The grant helps to pay for activities aimed at publicising the Convention and its contents, for instance through the website [www.kinderrechten.nl](http://www.kinderrechten.nl).

50. In accordance with recommendations 23 and 25, the KRC has, with central government funding, developed Kidzwise school projects for young people, as well as courses on children's rights with information material for professionals working in youth care and custodial institutions, and with alien minors.

51. In 2012 the KRC has issued an updated version of its 2005 handbook on the interpretation of the Convention and other international law on the rights of children and young people (*Handboek Internationaal Jeugdrecht*). The handbook gives detailed information about the CRC and other international law relating to the legal status of minors for the benefit of professionals in the fields of law and youth policy. In 2011, the Dutch government asked the Centre for Children's Rights Amsterdam (CCRA) to produce a survey and analysis of relevant case law on the application of the CRC since 2003.

52. To mark the CRC's 20th anniversary in 2010, the government provided a grant to help fund the chair in Children and the Law at the University of Leiden in the years 2010 and 2011. To develop sound research findings on juvenile law and children's rights in the Netherlands, the chair works closely with, for instance, the Children's Ombudsman and the Child Rights Home in Leiden.

53. The Child Rights Home in Leiden opened in May 2010. It is a private initiative set up by the UTOPA Foundation. The Child Rights Home is a knowledge centre for children's rights, bringing together a number of organisations working in this field (including the secretariat of the Coalition for Children's Rights). Events and activities relating to children's rights are organised there. In 2010 the Ministry of VWS funded various activities, such as a workshop to present the Child Rights Home and Young Child Rights Advocates, an exchange programme involving ten children from different countries who have demonstrated outstanding courage in championing children's rights.

54. Financial support from the Dutch government helped to fund the International Children's Peace Prize and the annual speech on children's rights read by the elected

“Queen” of children and young people. These are initiatives devised by the KidsRights Foundation and UNICEF aimed at attracting more publicity for children’s rights.

## **Article 44, paragraph 6**

### **Availability of reports**

55. The Netherlands’ third periodic report on the implementation of the Convention on the Rights of the Child was disseminated widely. Printed versions were published in both Dutch and English and the complete text of the report is available both on the website on the rights of the child, the website of the Dutch government, and the website for official publications. This fourth report will likewise be disseminated both in print and digitally.

## **II. Definition of the word “child”**

### **Article 1**

56. For a definition of the word “child”, the reader is referred to the initial report of the Netherlands.

## **III. General principles**

### **Article 2**

#### **Non-discrimination**

57. One important development in terms of non-discrimination since the last report has been the entry into force of the Municipal Anti-Discrimination Services Act (*Wet gemeentelijke antidiscrimatievoorzieningen*) in 2009. Under this legislation, municipalities are obliged to ensure that all citizens are able to turn to a local Anti-Discrimination Service for support if they are discriminated against. The legislation has ensured that every citizen has an easily accessible service in their local community where they can report actual or alleged discrimination, or ask for help and advice. The anti-discrimination services have two statutory duties: to offer assistance when a complaint of discrimination is made and to register such complaints. The Municipal Anti-Discrimination Services Act was evaluated in 2012.

58. In line with recommendation 27, a major national information campaign entitled “Do you have to hide yourself to be accepted?” was mounted in summer 2009 to encourage people to report discrimination. Anti-discrimination services received three times as many complaints as usual in that year as a result of the campaign. The campaign was repeated in summer 2010.

### **Article 3**

#### **Interests of the child**

59. Children must be able to grow up and develop safely and healthily, and to participate in our society. This core principle of the CRC forms the foundation of Dutch youth policy, which centres on the interests of the child. We encourage children and young people to develop their talents and participate in society through education, youth participation

schemes and other services. Every child has the right to grow up with its parents or to stay in contact with both parents if it lives separately from one or both of them.

60. Parents bear primary responsibility for raising their children. They must resolve any problems they encounter as far as possible with the support of their own social network. Most parents and children succeed in this. But if children need care, it must be provided in an adequate and timely manner by Youth and Family Centres and other youth care services. The role of the government is to protect children from all forms of discrimination and abuse by parents or others. Children whose development is in jeopardy must be given special care, and if necessary to be taken into protective care.

### **1. In youth care and protection services**

61. As mentioned in the third report, the CRC and the conclusions and recommendations of the Committee on the Rights of the Child have led to the interests of the child being given more weight in decisions involving children.

62. Parents have a right and an obligation to care for and raise their children as they see fit. The authorities may not intervene in a family situation without good cause. On the other hand, however, children have a right to wellbeing, development and freedom from abuse. In the event of parenting problems that threaten the development of the child, where the parents refuse support, the government is obliged – in the interests of the child – to institute child protection measures as a framework for providing the necessary support to parents and child alike.

63. The Senate is currently considering a bill for the review of child protection measures which, in accordance with the CRC, focuses on the child's right to healthy and balanced development and growth to independence.

### **2. In criminal law**

64. It is regarded as vital that parents be involved in the response to criminal behaviour by their child. Under article 490 in conjunction with article 50 of the Code of Criminal Procedure, parents must be given access to their child as soon as he or she is arrested by the police. As of 1 January 2011, article 496a was added to the Code of Criminal Procedure, making it obligatory for both parents to attend their child's court hearing. A children's judge can order that the parents be brought to court if they are not present. If the presence of one or both parents is regarded as at odds with the interests of the young person, the court may waive the obligation for the parents to attend.

65. The Behavioural Change Programmes (Young People) Act (*Wet gedragsbeïnvloeding jeugdigen*) entered into force on 1 February 2008. Up to October 2010, 180 behavioural programme orders were imposed. Each behavioural programme order involves a tailored programme set up jointly by the Child Protection Board and the youth probation services, often involving the parents. The programme may include new or existing behavioural interventions, specialised juvenile psychiatric care, needs-assessed youth care and treatment for addiction, giving them a robust tool for ensuring that the criminal justice system's response to their unacceptable behaviour also reflects the care needs of the child. Such orders are designed to re-educate young people without depriving them of their liberty.

66. The youth probation service arranges supervision for the child while the order is in force and informs the Public Prosecution Service if the individual does not fulfil the obligations entailed in the programme. In that event, the Public Prosecution Service may impose youth detention instead.

### 3. Other

67. It is in the interests of the child that, even after its parents have divorced, it should continue to have contact with both parents and that both parents should continue to take joint responsibility for the child's care, upbringing and development. Good arrangements in the divorce settlement can prevent unnecessary conflict at a later stage. For this reason, the Shared Parenting and Responsible Divorce and Separation Act (*Wet bevordering voortgezet ouderschap en zorgvuldige scheiding*) entered into force on 1 April 2009. The legislation is designed to help reduce problems with divorce or separation and access arrangements.

68. In the view of the Dutch government, the above measures constitute action in the spirit of the Committee's recommendations 28 and 29.

### 4. In immigration policy

69. Children are a vulnerable group in society. Immigration policy therefore takes account of their rights and interests. The implementation of this policy involves individual decisions, in which the interests of the child are considered. This is reflected, among other things, when assessments are made in the framework of article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). If the relevant authority intends to refuse to issue or renew a residence permit, the case is assessed in the light of article 8 of the ECHR, insofar as that article has been invoked, or the facts and circumstances warrant it.

70. In cases where such assessments concern family life involving minor children, account is taken of several factors that are specific to minors. These are: the duration of the family's legal residence in the Netherlands, the age of the child, the child's ties with the Netherlands, the ties of the child living in the Netherlands with its country of origin and any special circumstances. In addition to the European Convention on Human Rights (ECHR), other international treaties come into play here. Since July 2010, following a court judgment, families with minor children whose applications for residence permits have failed are provided with accommodation until they can return to their country of origin. In mid-2011, two family accommodation centres were established where preparations can be made for return.

71. Voices in the political arena and in society at large have called for a policy granting residence permits to children who have lived in the Netherlands for over five (or possibly even eight) years. The argument is that the roots they have put down in Dutch society are such that they can no longer reasonably be asked to return to their country of origin.

## Article 6 Right to life and development

### 1. Termination of the life of newborn infants and child euthanasia

72. The Netherlands takes the view that legislation and procedures concerning termination of the life of newborn infants who suffer unbearably and have no prospect of improvement should be evaluated carefully, and reviewed if necessary. An evaluation of the procedure for reporting and reviewing cases in which the life of a newborn infant has been terminated was therefore commissioned in autumn 2010. This is a response to recommendation 31A.

73. In response to recommendations 31B and 31C, three factors are particularly important when it comes to strengthening the review procedure for euthanasia and ensuring that cases are reported: evaluation of the legislation, transparency, and consultation of an independent physician. Scholarly evaluations are conducted every five years in the

Netherlands to establish whether the legislation is serving its intended purpose. The most recent evaluation was completed in 2012 and focused on willingness to report, among other things.

74. The already high level of willingness to report will be further boosted through transparency. The publication of the annual report of the review committees and the online publication of the findings will ensure that doctors are fully aware of how reports of euthanasia are reviewed.

75. Consulting an independent physician provides an important guarantee that due care is taken. To guarantee the quality of the consultation, the doctors' federation KNMG trains general practitioners and specialists in the Netherlands specially for the purpose. The Euthanasia in the Netherlands Support and Consultation Programme also provides peer review and refresher training.

76. Granting a request for termination of life or assisted suicide places a great emotional and legal burden on a doctor. Doctors will therefore always make certain that the request is voluntary and well considered. Consideration of a request for termination of life begins with an assessment of whether the request is well considered, in accordance with the explicit due care criteria set out in the legislation. The psychological condition of the patient is also taken into account.

77. When a request for termination of life is received from a minor, different arrangements concerning permission apply to different age groups. In the case of a 12- to 16-year-old who is capable of making an informed decision, the permission of both the minor and the parents or guardian is needed. The permission of the parents or guardian is not needed for a 16- or 17-year-old, though they must be involved in the decision.

## **2. Medical research involving minors**

78. Under Dutch law, medical research involving minors which has not the potential to produce results of direct benefit to the minor concerned is only permitted if the risks are negligible and the objections are minimal. This provision of the Medical Research (Human Subjects) Act (WMO) has proved to be a barrier to certain early stages of medical research. A committee chaired by Professor J. E. Doek has recommended that the provision be repealed. The committee's recommendation is being adopted: the Act will be amended such that its provisions on research with children are in line with European legislation on clinical trials on medicinal products for human use.

## **Article 12 Respect for the child's opinion**

### **1. Youth participation**

79. The introduction of the Social Support Act (*Wet maatschappelijke ondersteuning, WMO*) in 2007 made municipalities (rather than central government) responsible for several matters that directly affect young people. These include welfare, preventive youth policy and volunteering. Under the Act, municipalities are obliged to involve the public – including young people – in the process of devising local policy. Local officials and civil society organisations determine how this is to be done, together with the public.

80. In line with recommendation 35, the National Youth Council (NJR), an umbrella organisation to which some 30 youth organisations are affiliated, receives core funding from the Ministry of Health, Welfare and Sport to give young people a voice at national level and to ensure more youth participation at local level. All the Council's activities are

conducted as far as possible by and for young people. NJR focuses mainly on young people aged 12 and over.

81. The NJR organises the annual National Youth Debate in the House of Representatives between young people and politicians. Since 2011 the debate has been funded by central government. In 2009 Rotterdam was the first European Youth Capital, with the theme “Your World”. During that year, central government and other parties invested in youth participation, developing young people’s talents, diversity and activities to bring young and old together. The NJR plays a major role in disseminating to other municipalities good examples generated in 2009, using funding it received in 2010 and 2011.

82. The *Jong Lokaal Bokaal* is a prize for the municipality that has achieved most success in promoting youth participation and has the most positive youth policy. Such a policy focuses on encouraging, improving and strengthening opportunities in the local community that provide the optimum conditions for young people to develop, without regarding them as a problem. The NJR has been awarded funding for this purpose for 2008-2012.

83. Between 2008 and 2010 the NJR developed a pool of trainers, using a central government grant, to train a group of young trainers in useful knowledge, skills and experience, who in turn can train their peers. This puts the principle of peer education into practice.

84. Every spring and autumn the NJR holds talks with the government member responsible for youth policy. Civil servants also hold regular consultations with and seek the advice of the NJR. The Council is for example currently involved in deliberations as to how the Second World War should be remembered. In summer 2011 seven Polish youngsters and their teacher from Wlodawa, close to former extermination camp Sobibor, visited Dutch youngsters to exchange ideas on Second World War remembrance, and young people’s role. National youth political organisations receive grants via their parties. These organisations ensure young people have an influence on the party, and help recruit and develop young talent.

85. The NJR has youth representatives who bring international issues to the attention of Dutch youngsters and represent them at the EU, the Council of Europe and the UN. These activities receive permanent funding from central government.

86. Central government is working with the NJR and the Netherlands Youth Institute (NJI) to establish a “structural dialogue” to ensure that grassroots organisations, municipalities and young people are permanently involved in the implementation of the European Youth strategy in the Netherlands over the coming years.

87. From October 2004 to the end of 2006 the Ministry of Health, Welfare and Sport had a temporary incentive scheme for voluntary work by and for young people. Grants were awarded to 27 projects run by 22 organisations. A similar temporary scheme in 2007 and 2008 funded 23 projects by 19 organisations. The aim of the schemes was to encourage active citizenship on the part of young people.

88. A volunteer programme by and for families and young people, funded by the Ministry of Health, Welfare and Sport, ran from 2009 to 2011. This programme, administered by the Netherlands Organisation for Health Research and Development (ZonMw), involved collaboration with MOVISIE and the NJI. It aims to boost community involvement and active citizenship in relation to parenting and development.

89. One important tool now in place is the Youth Participation (Municipalities) Monitor, which measures the standard of youth participation in a municipality area. See <http://www.be-involved.nl/de-kwaliteitmeter-jongerenparticipatie-gemeenten> for more

details. Under the WMO, municipalities are obliged to involve the public, including young people, in local policy. The Monitor is designed to afford a reliable insight into the degree to which young people influence, have a say in and initiate developments in municipal policy. It allows the municipality to discover what opportunities young people have to put forward ideas and help take decisions at local level, and why they do or do not take advantage of these opportunities.

90. The Monitor can also help the municipality identify ways of promoting youth participation. Two-thirds of municipalities allow young people a say in policy, or encourage them to come up with ideas and initiatives. Youth participation appears to have been taken up by a large number of Dutch municipalities. The Monitor was developed by the Alexander Foundation and the Verwey-Jonker Institute with funding from a number of municipalities and central government.

## **2. Opinions concerning policy for the local environment**

91. Stated above, under the Social Support Act municipalities are responsible for involving young people in matters that affect them. A new vote on child- and family-friendly initiatives was held in 2011, organised by the Child Friendly Cities Network and central government. The previous vote (2005) had been a great success, and the inspiration pack produced in response is still used by many municipalities. The 2011 vote produced another pack to provide a framework for ideas and some inspiring examples. All municipalities were sent a copy of the pack.

92. Jantje Beton, the organisation that campaigns for more outdoor play opportunities for children, and NUSO, the organisation for playgrounds in the Netherlands, received central government grants for outdoor play facilities in 2009 and 2010.

## **3. Participation in the youth care sector**

93. The National Youth Care Client Forum (LCFJ) represents clients of youth care services, including a number of youth councils. The organisation recently revamped its website, which now has separate portals for parents and youngsters. It provides information for young people on each individual subject, including details of how they can have their say in the care system. Along with Q4C the LCFJ has developed quality standards for youth care which allow young people to assess institutions themselves and discuss improvements with them.

94. Under the Youth Care Act every Youth Care Office and every care provider in the system must have a client council where young people can have their say about the organisation. Some organisations have set up a separate youth council as a client council specially for young people. Such councils have a say on a broad range of issues.

## **4. Right of complaint and legal assistance for young people**

### **(a) Childline**

95. Childline is a telephone counselling service for children and young people from the age of eight. Children and young people can call the service anonymously for help, advice and information on all kinds of matters. If necessary, callers are referred to an organisation that can help them. Calls from mobile phones have also been free of charge, like landline calls, since 1 January 2009, thanks to funding made available by the Ministry of Health, Welfare and Sport. This allows young people to decide for themselves where they call from, thus improving confidentiality. The development was also necessary in view of the fact that the number of landline connections and public telephone boxes is falling.



**(b) Right of complaint in youth care services**

96. Every care provider and Youth Care Office must have a scheme in place for dealing with complaints, with an independent complaints committee established specially for the purpose, allowing young people or their parents to complain about the conduct of staff. A confidential counsellor must be available to help free of charge with the wording and submission of complaints.

97. In 2010 the National Ombudsman and a number of Youth Care Offices put together a guide entitled “Good practice in handling complaints in the youth care system”, designed to ensure that all Youth Care Offices have the same good procedures for dealing with complaints.

**(c) Legal assistance for minors during police interviews**

98. The reader is referred to part VIII, B (i).

**(d) Payment for costs of assistance in mediation**

99. In 2009 a statutory scheme was introduced to reimburse the costs of mediation assistance for litigants, increasing access to mediators for those who qualify for legal aid. Mediation is used in a proportion of divorce cases, to settle matters that are important to the children of divorcees, such as maintenance payments and access arrangements. Children therefore also benefit from the improved access to mediators.

**(e) Legal aid in the event of international child abduction**

100. The International Child Abduction Act, which entered into force on 1 January 2012, includes provisions designed to improve the position of those directly affected by cases of international child abduction<sup>3</sup>. The Act abolishes the power of the central authority to legally represent applicants in proceedings pursuant to child abduction conventions. See also part V.H for more details.

**IV. Civil rights and freedoms****Article 7****Name and nationality****1. Change of surname**

101. Since 1 September 2011 the fee payable for changing a minor’s surname has been €835. The increase was introduced on the basis that the fees charged for government services should cover costs (Bulletin of Acts and Decrees 2011, 385).

**2. Choice of name at birth or later**

102. Under the Act of 9 October 2008 amending certain provisions of Book 1 of the Civil Code concerning registered partnership, surnames and acquisition of joint parental responsibility (Bulletin of Acts and Decrees 2008, 410), article 5, paragraph 2 of Book 1 of the Civil Code was amended to the effect that if a child is born to parents who are not married to each other and is acknowledged by the father, the parents may on their marriage or the registration of their partnership jointly declare that their child will henceforth take the

<sup>3</sup> Staatsblad 2011, 530.

surname of the other parent. In addition, paragraph 4 stipulates that the surname chosen may be that of a parent and his or her spouse or registered partner who is not the child's parent, who are to have automatic joint responsibility for the child.

### **3. Parentage**

103. We are able to report that since the previous report the Artificial Fertilisation Donor Information Office is performing its statutory duties as required and is endeavouring, where possible, to bring donor children and donors into contact, under professional guidance. In addition, the Artificial Fertilisation (Donor Information) Act (*Wet Donorgegevens Kunstmatige Bevruchting*) was evaluated in 2012. The evaluation focused on the operation of the legislation and current practice. The latter includes societal impact, the policy of clinics, international matters and ethical issues.

### **4. Acquisition of nationality by minors**

104. Any child born in the Netherlands automatically acquires Dutch nationality provided that one of the parents holds Dutch nationality at the time of the child's birth, or did so at the time of death in the case of a posthumous child. Similarly, any child legally adopted in the Netherlands, Aruba, Curaçao or St Maarten automatically acquires Dutch nationality on the first day after a three-month period following the court's decision, provided that the child was a minor on the day when the court granted the adoption order and that at least one of the adoptive parents was a Dutch citizen at that time.

105. In addition, the Netherlands operates the "third-generation rule": Dutch nationality is automatic in the case of any child whose father or mother has his/her principal residence in the Netherlands, Aruba, Curaçao or St Maarten at the time of the child's birth, provided that she/he was born of a father or mother who had his/her principal residence in one of those countries at the time of his/her birth, and that the child in question also has his/her principal residence in the Netherlands, Aruba, Curaçao or St Maarten at the time of his/her birth.

106. A foreign minor who is acknowledged or legitimated by a Dutch national can be granted Dutch nationality on request. As of 1 March 2009, a foreign minor who is acknowledged by a Dutch national before the age of seven automatically acquires Dutch nationality. A foreign minor who becomes the child of a Dutch national via legitimation without being acknowledged also acquires Dutch nationality, irrespective of their age.

107. Finally, a foreign minor who is acknowledged by a Dutch national who proves his paternity within a year of the acknowledgement also automatically acquires Dutch nationality, again irrespective of age. Paternity must be demonstrated by means of a DNA test. This amendment is a response to the sense that distinguishing between children whose paternity is acknowledged before or after birth is undesirable, and the introduction of the DNA test requirement for the acknowledgement of older children reduces the risk of false acknowledgement of paternity.

108. Another amendment to the Netherlands Nationality Act, which entered into force on 1 October 2010, enables those born prior to 1 January 1985 to a Dutch mother and non-Dutch father to acquire Dutch nationality by option (Bulletin of Acts and Decrees 2010, 242). The new arrangement was made to correct the unequal treatment of men and women under nationality law in the past. The Netherlands has also agreed to the Recommendation of the Council of Europe's Committee of Ministers about the nationality of children. The extent to which Dutch law needs to be amended in this connection will be considered at a later stage.

## **Article 8**

### **Right of the child to preserve/re-establish its identity**

109. One of the Netherlands' main principles is that it is people's future that counts, not their origins. As a result, it no longer pursues policies based on origin. Integration will not therefore be effected by means of specific policies targeting particular groups, but by general measures based on the responsibility of those concerned and of civic institutions. Generic policy must be effective in all cases, including where immigrants are concerned. Specific problems – reducing unemployment, improving command of Dutch, or curbing early school-leaving, anti-social behaviour and crime – must be tackled through the regular channels, with regular measures. By decentralising responsibility for youth care and other policies on education, work and income, the government is giving municipalities more opportunity to apply tailored solutions within the framework of regular policy. The government expects this to lead to immigrant youngsters, too, being given more opportunity to participate.

## **Article 13**

### **Freedom of expression**

110. Freedom of expression is enshrined in article 7 of the Dutch Constitution (see sections 85 and 86 of the initial report), and in human rights conventions to which the Netherlands is party, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the International Covenant on Civil and Political Rights (ICCPR).

111. Article 10 of the ECHR is particularly important in this context. Under article 10, paragraph 1, everyone has the right to freedom of expression. This right encompasses the freedom to hold an opinion and the freedom to receive and impart information and ideas without interference by public authority and regardless of frontiers. Freedom of expression as enshrined in this provision may be restricted only if the requirements of article 10, paragraph 2 of the ECHR are met.

## **Article 17c**

### **Access to information**

#### **1. Children's broadcasting**

112. The public broadcasting system has a statutory obligation to serve all sections of society, including children and young people. Since 2000 children have had their own station on the public TV channels. Since 2005 there has been a daily schedule of children's programmes from 07.00 to 19.30 under the names "Z@ppelin" for two- to six-year-olds, and "Z@PP" for six- to twelve-year-olds. Z@PP/Z@ppelin also broadcast 24 hours a day on the special digital channel of the same name.

113. Z@PP and Z@ppelin also have their own websites which aim to involve children in a fun way in the programmes they broadcast. The websites feature campaigns, games, news, information and short films about the programmes. The sites are designed with online safety in mind.

114. Children can also choose from a wide range of educational and informative programmes, including their own daily news programme, *Jeugdjournaal*, which is in fact broadcast twice a day during the school week. The public broadcasting umbrella organisation NOS is obliged by law to produce these special news broadcasts for children.

NTR specialises in programmes of an educational nature, and indeed has a statutory duty to produce such programmes. The high standard of children's programmes available on the public broadcasting service is evidenced by the fact that they regularly win international awards.

## **2. Promoting reading**

115. Reading is an activity that helps young people and children to develop their personalities and mental faculties, and as such, receives the wholehearted support of the Dutch government. The programme that promotes reading will be continued over the next few years as will the relevant budgets.

116. Municipal authorities are required to cut spending between 2010 and 2014. In many cases, they will be cutting back on funding to public libraries, which may mean closure of branch libraries or a reduction in opening hours. The impression is that these cutbacks will have little or no impact on the reach of services. Even after the local cutbacks have been implemented, Dutch public libraries will continue to be a well-distributed service open to every resident.

## **3. Media education**

117. In recent years a great deal of attention has been focused on media education and media awareness. The government wants to ensure children use media sensibly and with awareness by equipping them properly to use the opportunities the new media afford, and to avoid the risks. The government also wants to foster a safe media output.

118. This led in 2008 to the launch of a media awareness centre of expertise known as Mediawijzer.net. It receives financial support from the Ministry of Education, Culture and Science. Mediawijzer.net is a network organisation which aims to enhance people's media awareness. Children and their parents are a key target group.

119. 2010 saw the launch of a pilot project for the development of a suitability information system, supported by the Ministry of Education, Culture and Science. This system, known as Mediasm@rties, provides an overview of children's media suited to certain ages. Parents and children can consult the website for information on the content and suitability of media products such as television programmes, films, online games, video games, apps and websites for children from the age of eighteen months to eleven years.

## **4. Protection from harmful information**

120. The audiovisual media work together via the Netherlands Institute for the Classification of Audiovisual Media (NICAM) to give audiovisual productions an age and content classification for distribution on television, in cinemas and on DVD and video. The audiovisual media thus work with the government to ensure young people are protected from harmful audiovisual material.

121. A new age category was added to the existing categories in 2009: "may not be suitable for children aged nine and under". NICAM administers the PEGI (Pan European Game Information) system for computer games. Young people can best be protected at European level from harmful information on the internet.

122. *Kijkwijzer*, which provides information on the classification of media products, enjoys broad support in the Dutch media industry and is now a household name; in 2009, 95% of parents with children under the age of 16 were aware of it and 92% said they used it themselves.

## 5. Media needs of minority languages / Frisian

123. The Administrative Agreement on Frisian Language and Culture signed by the Minister of the Interior and Kingdom Relations on behalf of the Minister of Education, Culture and Science in particular and the government in general, and by the province of Friesland, is intended to firmly embed the Frisian language and culture in Dutch society, and also includes arrangements concerning Frisian-language media output. The NOS is for example obliged to offer 37 hours of Frisian programming per year on the national public channels, including at least 16 hours of school television. The regional public broadcaster Omrop Fryslân also provides programmes in Frisian for the region. Omrop Fryslân also has a wide range of programmes which are broadcasted online and has a separate children's department which makes a range of children's television and radio programmes.

## 6. Right of access to and copy of information

124. Under the Medical Treatment Contracts Act (*Wet op de geneeskundige behandelingsovereenkomst*) and the Personal Data Protection Act (*Wet bescherming persoonsgegevens*), parents and children have a right to access to, a copy of, correction and removal of all or parts of medical records such as the digital file kept by the youth health care service. Parents have the sole right until the child reaches the age of 12, at which point it passes to the child. Under the Medical Treatment Contracts Act parents and children also have a right to demand the addition of information. Parents retain only the right to demand correction until the child is 16, when it passes to the child.

125. A doctor or nurse may refuse the right of access, receipt of a copy, correction or removal only if it would be incompatible with his or her statutory duty of care for the child. A doctor or nurse may for example refuse access in the interests of the privacy of the child or of one of the parents. If parents or children object to use of the information, they can discuss it with the doctor or nurse. The basic principle is always the interests of the child. The rights to digital information are equivalent to the rights pertaining to information on paper.

## Article 14 Freedom of thought, conscience and religion

126. Everybody in the Netherlands – irrespective of age – has the right freely to profess his/her religion or belief. This right is enshrined in article 6 of the Dutch Constitution (see sections 97 and 98 of the initial report) and in human rights instruments to which the Netherlands is party. This freedom of religion encompasses not only the right to hold beliefs, but also the right to change them and to act in accordance with them.

127. Acts which are a direct expression of religious belief are also protected by the constitutional ban on discrimination generally and discrimination on the grounds of religion and belief specifically. Examples of such acts include, for example, the wearing of particular items of dress, such as headscarves in the case of Muslim women.

128. In 2004, discussion of these and related issues in the public and political arenas led the government to issue a policy document on fundamental rights in a plural society (Parliamentary Papers House of Representatives, 29 614, no. 2). The present government stands by the substance of this policy document. This and other events in turn prompted the Council of Europe to take up the issue.

129. The Council of Europe surveyed good practice with regard to matters such as religious dress. This resulted in 2009 in the publication of the Manual on the wearing of religious symbols in public areas (by Malcolm D. Evans). The Netherlands chaired the

working group that prepared the publication. The manual prompted the Ministry of the Interior and Kingdom Affairs to organise a conference in December 2008 entitled “Human rights in culturally diverse societies: challenges and perspectives” in collaboration with the Council of Europe.

## **Article 15**

### **Freedom of association**

130. The relevant information can be found in the initial report.

## **Article 16**

### **Privacy; right to a private life**

#### **1. In the youth care service**

131. The rules in the Youth Care Act are described in the third report. The Ministry of Health, Welfare and Sport is working to raise awareness among and train care providers in the matter of assessment. For example, it published a guide on “Cooperation in the youth care system” explaining careful assessment in clear and simple terms, and providing content for training and conferences on the subject.

#### **2. In the healthcare system**

132. Under the Medical Treatment Contracts Act only doctors, nurses and assistants working in the youth health care sector may access youth healthcare medical files. A child’s file is accessible only to the doctor or nurse to whose care the child has been entrusted. Parents have a right of access until the child is 12. Children have sole right of access from the age of 12. Parents then have no right of access unless the child gives permission. Findings in the file may be shared with other doctors or nurses in the interests of the child, and with the permission of the parent and/or child.

133. The Digital Youth Healthcare File is used only in the youth healthcare system. It is not therefore accessible to general practitioners, hospitals, schools, municipalities, youth care services, the police, the criminal justice authorities or other persons or bodies, even if they are involved in the care of the child.

## **Article 37a**

### **Torture or other inhuman or degrading treatment or punishment of children**

#### **1. Children and custodial sentences / detention orders**

134. In principle, any child who has received a custodial sentence or detention order is placed in a young offenders’ institution. The legal status of these children is firmly entrenched in statutory provisions. The rights of children who are detained in a young offenders’ institution are enshrined in the Young Offenders’ Institutions Framework Act (BJJ) and regulations adopted to implement it, such as the Young Offenders’ Institutions Regulations (RJJ) and the Enforcement of Juvenile Criminal Law Decree 1994. A legal principle of this Decree is that the enforcement of a sentence should serve an educational purpose (section 2, BJJ).

135. The aforementioned Act<sup>4</sup> and the implementing regulations have been significantly amended by fresh legislation in the reporting period. The amendments were prompted by the publication of a report on safety in young offenders' institutions (Veiligheid in justitiële jeugdinrichtingen: opdracht met risico's) in September 2007. In this report, the Youth Care Inspectorate, the Healthcare Inspectorate, the Education Inspectorate and the Custodial Institutions Inspectorate made joint recommendations for qualitative and safety-related improvements to institutions. The recommendations related to the prevention and control of aggression and violence in institutions, the way inmates are treated, education, treatment and the expertise of the staff.

136. It is clear from the joint inspectorates' final report, three years after the publication of their report on safety in young offenders' institutions, that all young offenders' institutions now possess the necessary conditions enabling them to provide a safe climate for living, working and treatment. Not one of them poses any serious risk in the areas studied any longer, according to the joint inspectorates. Some of the statutory amendments are described in brief below:

## **2. Introduction of the time-out**

137. With the introduction of the time-out<sup>5</sup>, a young person can be removed from a group or excluded from participation in communal activities for a brief period of time. The idea is to prevent this temporary exclusion from being seen as any form of disciplinary measure or punishment.

## **3. Changes to the classifications of young offenders' institutions; greater emphasis on treatment**

138. The differences in classification between detention and treatment centres have been removed. This increases the flexibility of institutions. It creates a situation in which all juvenile offenders' institutions can in principle offer treatment, or some forms of treatment.

## **4. Revised mediation, complaint and appeal procedures**

139. The BJJ lays down regulations for mediation, complaint and appeal procedures.<sup>6</sup> It defines the decisions that may be the object of a complaint or appeal. The purpose is to clarify the decisions that may in any case be the object of a complaint. This makes the regulations clearer for the child. To prevent any violation of those rights of a juvenile that do not appear in the list given in section 65 of the BJJ, a general residual category has been added. Finally, a mediation procedure is followed as standard practice before a complaint is taken into consideration in the formal complaint procedure.

## **5. Introduction of ITA**

140. The Act also lays down the basis for the existing separate wings providing individual supervision (ITA). Juveniles with behavioural problems that make it difficult to control them in groups can be given largely individual attention in these wings. A juvenile's placement in an ITA wing is a decision based on his or her specific problems. For instance, someone may receive specific therapies designed to help control aggression. One reason for

<sup>4</sup> Act of 13 December 2010 amending the Young Offenders' Institutions Framework Act, the Criminal Code, the Code of Criminal Procedure and certain other Acts in connection with modifications to the enforcement of juvenile custodial penalties (Bulletin of Acts and Decrees 2010, 818), Parliamentary Papers 31 915. Entry into force on 1 July 2011 (Bulletin of Acts and Decrees 2011, 296).

<sup>5</sup> Section 23a, BJJ.

<sup>6</sup> See sections 64 to 76 BJJ.

this special facility is that in the past, young people whose problems were unsuitable for treatment in groups were often transferred, whereas repeated transfers of this kind are considered highly undesirable.

#### **6. Mandatory aftercare following detention in a young offenders' institution**

141. Placement in a youth protection and custody institution (*PIJ-maatregel*)<sup>7</sup> and youth detention are followed by a period of compulsory aftercare. In the case of someone who still has three months or more to serve in youth detention, mandatory aftercare takes the form of a training and education programme (STP) provided by the probation service or youth probation service. For those who have less than three months left to serve in youth detention, the aftercare takes the form of specific conditions attached to a (partly) suspended sentence. Agreements have been made with the Public Prosecution Service to ensure that in appropriate cases, alongside an application for a non-suspended juvenile custodial sentence, the public prosecutor will also require for a suspended sentence or a suspended (or partly suspended) youth sanction. This agreement has been laid down in the Criminal Procedure (Juvenile) Guidelines (*Richtlijn voor strafvordering jeugd*).<sup>8</sup>

142. Finally, the Act provides for a system of conditional lifting of orders for placement in a youth protection and custody institution. In all cases, the order is lifted conditionally, one year before the maximum duration of the order. During the period when the order has been lifted, the juvenile is required to adhere to a number of set conditions.

#### **7. Overnight detention**

143. The Act also provides a basis for imposing overnight detention during the period of pre-trial detention. This too reinforces the underlying principle that a custodial sentence is the last resort. Pursuant to article 493 of the Code of Criminal Procedure, the court must determine whether the pre-trial detention may be suspended. Conditions may be imposed on the accused's behaviour as a condition of such suspension. Another possibility is overnight detention, the point being to prevent a child's schooling being interrupted and to prevent a child who is in employment from losing his or her job.

#### **8. Exclusion of life imprisonment**

144. Since 1 February 2008, the imposition of life imprisonment on a juvenile has been prohibited.<sup>9</sup> This implemented recommendation 78 (c) and previous recommendations in this regard. Although Dutch judicial practice was such that such a sentence was in fact a merely theoretical possibility, the new provision fulfils the Convention's requirement that a life sentence must be explicitly forbidden by law in such cases. Parliamentary Papers, House of Representatives 2005/06, 30 332, no. 3, p. 19.<sup>10</sup>

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<sup>7</sup> The court may order placement in a youth protection and custody institution (*PIJ-maatregel*) in the case of a young offender who was aged 12 to 18 when the offence was committed, who has been found guilty of a serious indictable offence, and who is deemed to require intensive help and treatment to prevent reoffending.

<sup>8</sup> Government Gazette 2010 no. 20093.

<sup>9</sup> Act of 20 December 2007 amending the Criminal Code, the Code of Criminal Procedure and the Youth Care Act, with a view to broadening the scope for influencing the behaviour of juveniles (Behavioural Change Programmes (Young People) Act (*Wet gedragsbeïnvloeding jeugdigen*), Bulletin of Acts and Decrees 2007, 575.

<sup>10</sup> Parliamentary Papers, House of Representatives 2005/06, 30 332, no. 3, p. 19.



## V. Family environment and alternative forms of care

### Introduction

145. On 1 January 2010, there were 3.93 million children and young people (up to 20 years of age) in the Netherlands, out of a total population of 16.7 million. This translates into 23.7% of the population. Most children in the Netherlands live with two parents, but the number of lone-parent families is growing: on 1 January 2011, almost 20% of all families with children were lone-parent families. Most lone parents are mothers, but there are also a growing number of lone fathers.

### Article 5 Parental guidance of children

146. Opportunities for parental guidance of children have been expanded in the reporting period.

#### 1. Parental responsibility

147. The amended article 253c of Book 1 of the Civil Code provides that if a mother refuses to exercise parental responsibility jointly with a father who is competent to exercise it, the father can apply for a court order giving the parents joint parental responsibility. Under the terms of the new statutory provision, the court will in principle grant such an application (see article 1:253c, paragraph 2). It will deny the application only if there is an unacceptable risk of the child's interests being disregarded or harmed by being caught between the parents and if this is not expected to change in the foreseeable future, or if it is necessary to reject the application for other reasons in the child's interests.

148. Under new article 1:253c, paragraph 2 of the Civil Code, a father who has acknowledged his child is entitled to parental responsibility and can be denied it only in exceptional circumstances. The law now also provides for a unilateral application to reverse a previous court order awarding parental responsibility to only one of the parents (article 1:253o of the Civil Code).

#### 2. Adoption

149. The legal position of same-sex parents in the sphere of adoption has been improved.<sup>11</sup> In the first place, where a child is born within a relationship between two women, the procedural requirements are now less stringent than in the case of a regular adoption, so that the adoption can be effected immediately after the child's birth and can be retroactive to the moment of birth.

150. In the Netherlands it is rare for a mother to give her child up for adoption. A study published in May 2011 on the underlying reasons why women give up their child for adoption shows that between 1998 and 2007, a total of 197 women gave their child up for adoption in the Netherlands. Of these, 36 were minors, ten of whom were 13 to 15 years of age.

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<sup>11</sup> Act of 24 October 2008 amending Book 1 of the Civil Code with a view to shortening the adoption procedure and amending the Placement for Adoption (Children of Foreign Nationality) Act in connection with joint adoption by same-sex couples (Bulletin of Acts and Decrees 2008, 425).

151. Where a mother who is a minor intends to give up her child for adoption, two minors must be taken into account. On the one hand there is the newborn baby, whose interests will be served by being raised by a stable carer and who should not be moved from one carer to another too frequently. On the other side there is the minor mother, who is not yet capable of grasping all the long-term consequences of her decision. For this reason, the Child Protection Board (“the Board”) always builds in a three-month period of reflection before starting a procedure for the child’s relinquishment. In this period, the mother planning to relinquish the baby can apply for help to the care agencies set up especially for these mothers. One possibility is admission to a reception centre specifically for teenage mothers; alternatively, the young mother can be placed in a foster family, together with her baby. It frequently happens that mothers, including teenage mothers, change their minds in these three months and decide to care for and raise their child themselves.

152. A website on adoption was launched in January 2012 ([www.geadopteerdonline.nl](http://www.geadopteerdonline.nl)). It was produced with support from the Ministry of Health, Welfare and Sport and provides a useful forum for adopted children, their adoptive parents and their biological parents.

## **Article 18, paragraph 1**

### **Parents’ responsibility for the upbringing and development of the child**

#### **1. General**

153. The basic principle underlying Dutch youth and families’ policy is that children should be able to grow up healthily and in safety, to develop properly, and to take an active part in society. Children are entitled to a sound upbringing. The primary responsibility for this lies with the parents. If parents need advice or support in their task, they can apply, in almost all municipalities, to a Youth and Family Centre.

#### **2. Youth and Family Centres**

154. Youth and Family Centres (CJGs) were set up in the vast majority of Dutch municipalities in the reporting period. The support provided by these centres is aimed as much as possible at consolidating children’s regular upbringing and enhancing the strengths and autonomy of children and their parents. Children’s rights are best served by a policy geared towards providing chances and opportunities. The government therefore encourages children to make good use of their talents. Where children are in need of care and support, this help should be appropriate and timely.

155. CJGs are easily accessible and identifiable places, to which children, young people and their parents can apply for information, advice and support on matters relating to growing up and upbringing. Their key objectives are to give parents timely advice and support (prevention), both in the immediate social environment and by improving cooperation between different agencies.

156. CJGs bring together, under one roof, a range of tasks relating to preventive health care, support in children’s upbringing, and help and guidance for families. In the new youth system, they serve as “front office” for all youth care. They are readily identifiable gateways through which children, young people, and parents can gain access to all forms of support. Besides working on site, their staff engage in dialogue with children and parents at schools and neighbourhood centres, day care centres and baby and toddler clinics. The aim is to ensure that well-trained professionals can respond immediately to most requests for help from young people and parents, if necessary after consulting others working within the Centre or elsewhere. If more specialised help is needed, the Centre can arrange for it. CJG staff are also alert to signs of possible child abuse, and can provide help or report their

observations so that the matter can be investigated. CJGs collaborate closely with schools in pupil support and advisory terms (ZATs) to improve care together with and at schools.

157. The public debate in 2009 and 2010 on the subject of raising children (*Opvoeddebat*) put upbringing squarely in the limelight, and meetings were organised with parents and others involved in raising children. The debate proceeded along three separate lines:

- A multi-faceted programme (*Opvoedestafette*) to germinate and encourage regional initiatives. As spin-offs from this programme, twenty debates on raising children were set up and supported nationwide. Parents, young people and professionals took part. The details were decided on locally: one municipality opted for a special theme week on upbringing with a range of activities, while another organised a debate on a particular date. All the knowledge and experience was compiled online in a “digital inspiration pack” ([www.opvoeddebat.nl](http://www.opvoeddebat.nl)).
- Nationwide focus on upbringing (*Landelijke aandacht voor opvoeding*) consisting of studies, national meetings, a special website dedicated to the debate ([www.opvoeddebat.nl](http://www.opvoeddebat.nl)) and a publicity drive around this theme.
- The online debate on upbringing (*Online Opvoeddebat*), launched in February 2010, with themes, opinion polls and propositions aimed at involving as large a section of the population in the debate. It was active for almost twelve months and attracted an average of 6,000 visitors a month.

158. Following on from the debate on children’s upbringing, a special week was organised around this theme from 10 to 17 October 2011. Local and regional organisations all over the country organised activities for parents, children and young people. The events provided ample opportunity to obtain new information about upbringing and to discuss everyday issues that arise when raising children. This week dedicated to upbringing issues will continue during the present government’s term of office.

### 3. Combining work and family

159. Partly in response to initiatives undertaken by the former Ministry for Youth and Families, measures were introduced in the reporting period to make it easier to combine work and family responsibilities. Besides measures relating to childcare and leave, attention has focused over the past five years on widening the scope for flexible working arrangements, less dependent on fixed times and locations. This is an important, systemic change to create a better balance for parents between paid work and childcare. The emphasis here has been on placing the issue of flexible working arrangements on the political agenda and creating incentives. The same applies to the role and wishes of working fathers.

160. The Working Hours (Adjustment) Act provides that employees may submit a request to work longer or shorter hours. Employers may only reject this request if there are pressing interests of the company or the service that militate against it, such as a shortage of personnel to cope with the work.

161. A number of studies have shown that flexible patterns of work (periods of working more, and others of working less) are essential to achieving a good combination of work and care. To promote this, draft legislation to modernise leave and working time arrangements was introduced in the House of Representatives in August 2011. Once this Bill becomes law, it will be easier for employees to combine their work with care for children or other close relatives.

#### **4. Parental leave**

162. On 1 January 2009, the statutory entitlement to parental leave was increased from thirteen to twenty-six weeks per parent, per child. Parental leave and entitlement to leave are non-transferable. The leave must be taken, in accordance with the European Directive, before the child's eighth birthday.

163. Parents who take parental leave receive a tax credit equivalent to 50% of the statutory minimum wage. Agreements can be made about payment, whether in collective bargaining agreements or with individual employers. In 2012 the revised EU Parental Leave Directive has entered into force. For Dutch legislation, the primary consequence has been to entitle employees to request adjustments to their working times after taking parental leave.

#### **5. Maternity leave**

164. As from 4 June 2008, self-employed women have a statutory entitlement to maternity benefit for sixteen weeks. The benefit is equal to the income previously earned as a self-employed person, up to a maximum of the statutory minimum wage. It is administered by the Employee Insurance Agency (UWV). At the request of the self-employed woman, the benefit can be paid directly to the person who is replacing her during the period of leave. In addition, Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC entered into effect in 2012.

#### **6. Working Hours (Adjustment) Act and Work and Care Act**

165. On 10 August 2011 a bill was sent to the House of Representatives to amend the Working Hours (Adjustment) Act and Work and Care Act. If passed, this will make the application of a number of leave arrangements more flexible. For instance, the bill removes the statutory restrictions on taking parental leave. This means that parents can decide themselves how to plan their parental leave.

166. The bill will also expand the scope for adjusting working hours. For instance, it will be possible to request an increase or a reduction in the number of working hours for a specified period, such as twelve months. The bill also provides for a longer period of maternity leave if the baby is hospitalised. If this hospitalisation lasts longer than a week, maternity leave is extended up to a maximum of 10 weeks.

### **Article 9**

#### **Separation from parents and the right of access**

##### **1. Developments at the level of policy and legislation**

###### **Youth protection measures**

###### **Policy programme "Better Protected"**

167. The policy programme "Better Protected" (Beter Beschermd) was launched in 2005 to improve the quality of youth protection: young people need to be given swift and effective protection. The programme seeks to improve this protection in three areas:

- Improved methodological procedures for family supervisors, using effective, specially designed procedures for the implementation of supervision orders (OTS) and guardianship;

- Improved cooperation between the partners in the youth protection system, so that decisions on a child's safety can be made quickly but with care (parallel procedures), considerably shortening overall throughput times;
- A bill to revise child protection measures.

168. In 2008 agreements were made with the partners in the system about introducing the changes. The results of the "Better Protected" programme are as follows:

- Introduction of the new method for implementing supervision orders ("Delta method").

A new method for implementing supervision has been devised. A caseload of 15 cases per FTE has been agreed (an average of 83 hours per annum per client). By mid-2009, all family supervisors had been trained in the Delta method and all youth care offices were working in accordance with it.

- A new method for the implementation of guardianship orders.

On 14 January 2008, a theoretical methodological document was presented on the implementation of guardianship (*Verschoven Gezag*; "Shifting Responsibility"). Its key points of emphasis are: children under guardianship orders are preferably to be placed in foster homes, and foster parents should take over the role of guardians in the longer term.

- The throughput time of the entire youth protection system has been reduced.

In 2005, some 300 days elapsed from the time at which protection was deemed necessary in a particular case until a children's judge made a protection order. By mid-2010, this average time had been cut to about 90 days. The rapid operational procedures at the various stages of the process are supported by an improved information supply throughout the system.

- Youth Protection Measures Bill

On 18 July 2009 the Youth Protection Measures (Review) Bill was introduced in the House of Representatives (Parliamentary Papers, House of Representatives 2008/09, 32 015, nos. 1-3). This Bill provides for measures to improve child protection legislation, including a single order to terminate parental responsibility, improvements in the exchange of information between youth care agencies, and a stronger position for foster parents. This Bill has been debated in the House of Representatives, and amendments to it have been adopted. The amended Bill is now before the Senate (Senate, session 2010–2011, 32 015, A).

## 2. Compulsory restrictions on waiting lists and caseload

169. There is deemed to be a waiting list within the youth protection system if within five days of the children's judge's making a child protection order the client has not yet been assigned a family supervisor. As part of the "Better Protected" programme, agreements have been made on the total throughput times in the youth protection system. This includes the maximum time that may elapse before deploying a family supervisor or guardianship agency worker: in 75% of cases, face-to-face contact between the family supervisor and the client must have taken place within a week of the court order.

170. From the third quarter of 2011 onwards, youth care offices will issue reports in accordance with the new definition. The reports will list the percentages of cases in which the client has been contacted by the family supervisor within one, two or four weeks.

Table 2  
**Statistics based on policy information supplied by youth care offices**

	2005	2006	2007	2008	2009	2010
Family supervision orders (OTS) as of 31/12	23,945	26,440	29,605	32,147	33,168	32,835
% increase in OTS	7.7%	10.4%	12.0%	8.6%	3.2%	-1%
Care orders (UHP)	8,370	9,546	11,413	10,964	10,522	9,252
% increase in UHP	- <sup>12</sup>	14%	20%	-4%	-4%	-12%
Average duration of OTS (yrs)	3.6	3.5	3.3	3.1	3.0	2.9

### 3. Separation of children from parents in the event of the parents' detention

171. Many measures have been taken in recent years to maintain contact between parents who are detained — especially mothers — and their children, and to provide them with support in their children's care and upbringing:

- Since 1 January 2011 all custodial institutions have introduced a weekend and evening programme, which makes it possible for school-age children to visit their parents at the weekend once every three weeks in addition to the regular weekly visits. Outside regular visiting hours, opportunities are provided for special parent-child visits at least four times a year, with special activities being organised within the institutions.
- In addition, all institutions have implemented child-friendly measures, such as modifying the rooms used for parent-child visits, and appointing a special liaison officer to whom detainees can address questions about the contact with their children.
- As part of the "Better Start" project, a trial programme is currently active with measures to support female detainees with their children's upbringing during detention and in the period immediately following it.
- In all custodial institutions, elements of the "child check" are carried out. This means that well before the beginning of detention, a check is carried out to establish whether the person concerned is responsible for the care and upbringing of any minor children, and if adequate care facilities are in place, to enable the necessary measures to be taken. Prior to detention, the detainee is informed about agencies that can be contacted, where necessary, to arrange for the care of children.

### 4. Measures to provide help and support in divorce and relational problems

172. In its 2008 family policy document "The strength of the family" (*De kracht van het gezin*), the government pledged to prioritise support for parents and children in situations involving actual or potential divorce or separation. To this end, it took action designed to minimise the adverse consequences for children of divorce and relational problems between their parents:

- On the basis of the range of available options for parents and children listed by the Netherlands Youth Institute, a manual was developed for CJGs, professionals and municipal authorities. The aim is to encourage the development of support from CJGs to parents and their relationships, and to stimulate the targeted deployment of modalities of support for relationships at local level.

<sup>12</sup> Reporting period for youth care offices.

- On the basis of experience with supervised access gained by five youth care agencies, a method for supervising access has been developed in conjunction with the Netherlands Youth Institute. It is called “Parenting is Permanent” (*Ouderschap blijft*). The child’s best interests and its right to have contact with both parents are at the heart of this approach. The method is intended not only for parents who need low-level support from a CJG, but also for those who have had supervision imposed on them either by the court or by a youth care office.
- Existing procedures for needs-assessed supervised access are undergoing further development, and new forms of local, easily accessible modes of help are to be made available.

## **Article 10**

### **Family reunification**

173. To qualify for family reunification, alien minors must meet the statutory condition (*inter alia*) that they actually form part of the family of their parent or parents. This criterion is now being assessed in accordance with the concept of family life within the meaning of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

174. The policy change is in line with the basic principle that parents and children normally belong together and that the family tie uniting them cannot easily be assumed to have been broken. After all, family life within the meaning of Article 8 of the ECHR can always be assumed to exist between parents and children and comes to an end only in extremely exceptional circumstances. The change also eliminates the disparity between the national and European definitions of family life/family ties between parents and minor children. The clarity of the new criterion makes it easier to decide individual cases and will bring the Dutch approach closer to that employed in neighbouring European countries.

## **Article 27, paragraph 4**

### **Recovery of child maintenance**

175. As from 1 January 2009, child tax credit (*kindertoeslag*) was replaced by the means-tested child allowance (*kindgebonden budget*), which is a contribution towards the maintenance costs of a child aged under 18. Whether the minor concerned is one’s own child, a step-child, foster-child or adopted child is irrelevant. Families receive a certain sum of money for each child, the amount of which depends on the number of children per household and the family’s income. It is paid by the Tax and Customs Administration.

176. Child benefit (*kinderbijslag*) will continue to exist alongside the means-tested child allowance. It is a state benefit that is paid independent of income by the Social Insurance Bank (SVB).

177. The Shared Parenting and Responsible Divorce and Separation Act (*Wet bevordering voortgezet ouderschap en zorgvuldige scheiding*; Bulletin of Acts and Decrees 2008, 500) further provides that child maintenance takes precedence over other maintenance obligations. This rule was applied in practice before, but it has now been laid down in law.

**Act implementing the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance**

178. The International Recovery of Maintenance (Implementation)<sup>13</sup>, which was passed by the Senate on 27 September 2011, implements the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, which was concluded on 23 November 2007 within the framework of the Hague Conference on Private International Law, and Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJEU 1/7).

179. Maintenance is frequently recovered across international frontiers. The Convention and the Regulation seek to clarify and improve the rules that exist in this area, which are currently incorporated into different instruments, and hence to make the international recovery of these costs easier for individuals. The Convention relates to maintenance obligations arising from a parent-child relationship in respect of someone who is under 21 years of age.

180. The National Maintenance Collection Agency (LBIO) already acts as the receiving and transmitting agency in international maintenance proceedings under the terms of the New York Convention, and conducts proceedings for the benefit of a foreign applicant. As receiving agency, the LBIO takes all the appropriate measures to ensure the recovery of maintenance on the creditor's behalf, including concluding a settlement and if necessary, instituting and pursuing legal action for maintenance and the execution of a judgment, court order or other judicial act.

181. The LBIO acts in its own name in international maintenance proceedings. It does not have to pay court fees in application proceedings, nor does it charge the foreign applicant. Article 14, paragraph 3 of the Convention and article 44, paragraph 3 of the Regulation can be applied in accordance with existing practice under the terms of the New York Convention. The applicant can sue without legal representation (in the sense of being represented in court by legal counsel) because the Central Authority, the LBIO, performs the necessary services itself free of charge.

**Article 20****Children temporarily or permanently deprived of their family environment****1. Youth care/care provision**

182. Youth care is intended for children under 18 years of age with serious developmental and behavioural difficulties and for their parents or carers. Youth care offices serve as the central portal for needs-assessed youth care. The youth care office assesses the nature and severity of the developmental and behavioural problems and determines the kind of care that is needed. If this can be provided at local level, the client is expected to accept this, and support will be needed in obtaining it. In other cases, where the problems are more complex, the client has a statutory entitlement to the care defined in the youth care office's needs assessment decision. The youth care office is also the portal for access for youth mental health services and care for young people with mild learning difficulties.

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<sup>13</sup> Parliamentary Papers, House of Representatives, 2010/11, 32617.



183. The law provides that young people are entitled to care. To guarantee this right, sufficient treatment and residential capacity is needed to prevent unnecessarily long waiting times and waiting lists. The government attaches great importance to easily accessible youth care. In 2008 and 2009, an extra injection of funds amounting to €100 million was invested to eliminate waiting lists. In 2010 and 2011, central government concluded agreements with each provincial authority, to ensure that all children would receive the care they require in a timely fashion.

184. Youth care providers must respond to the youth care office's needs assessment decision by offering an appropriate assistance plan. As things stand, the provincial authority arranges for this by planning and funding sufficient provision. This provision must be attuned to children's needs. The existing services include a wide range of care provision; care for young people must be tailored to their needs. Broadly speaking, the provision consists of peripatetic assistance, day care, residential services, and foster care.

185. Peripatetic assistance is provided in a child's own environment, supporting his or her development and behaviour. A peripatetic care worker supervises the parents as well as the young person concerned. In the case of day care, the young person goes to a special day centre providing youth care, in addition to attending school. This may be proposed because it can help to teach the young person concerned to deal with difficult situations and emotions in a peer group. At the day centre, children practise reacting to a range of situations, either in groups or on an individual basis, under the supervision of care workers.

186. In the case of residential youth care, the children or young people (aged up to 18) are placed (temporarily) in a special facility, whether voluntarily or by court order, both day and night. Various constructions exist, including family groups and other small residential units. The individual entitlement to forms of youth care has led parents and professional carers to tend to seek solutions to developmental and behavioural problems, sooner than necessary, beyond their immediate surroundings. As a result, the current entitlement to care has exacerbated the sector's heavy workload, bureaucracy, and waiting times. The new statutory framework will therefore cast entitlement to care in a different mould. Under the new system, the basic principle will be a statutory general duty of care for municipal authorities to offer developmental and behavioural support, where needed, to young people and those parenting them.

## 2. Foster care

187. Whenever problems arise with the children in a family, the first response is always to see if these can be resolved at home. If not, the preferred alternative is foster care. This is a form of youth care in which a child who can no longer live at home (temporarily) is placed with a foster family. This is the form of care that most closely resembles a natural family situation.

188. Anyone aged 21 or older who is capable of offering a child structure, warmth and safety can become a foster parent. Those wishing to do so undergo extensive screening, including a declaration of no objection from the Child Protection Board. The entire preparatory procedure for becoming a foster parent takes about six to nine months. Foster parents receive a grant to cover the costs of care. A Bill to improve the position of foster parents (*Wetsvoorstel Verbetering positie pleegouders*) is currently under consideration. This new legislation seeks to improve the legal status and financial position of foster parents. The number of foster children increased from 17,500 in 2005 to 24,000 in 2010. In 2010 there were 15,500 foster parents.

189. For many children, foster care is brief, because the "care services" variant is predicated on the assumption that the child will soon be returning home. In this case, the support offered to the parents is geared towards this swift return. The current aim is to

establish more quickly if return is no longer an option, to make it possible to find more permanent foster care, based on the “parenting” variant. The ‘Better Protected’ programme contains agreements on cooperation and shorter throughput times.

190. In 2010 a campaign was launched under the heading “Discover the foster parent in yourself”. Foster parents now have their own website, a new pictorial database and informative material and a “toolkit” to enable them to recruit other foster parents from 2011 onwards.

### **3. Youth care plus**

191. “Youth Care Plus” (closed youth care institutions) has existed since 2008. It was introduced in response to widespread concerns about young people who had been institutionalised under civil law orders being placed in young offenders’ institutions alongside those sentenced under the criminal law. It was decided to shift the care for young people with severe behavioural problems away from closed institutions run by the criminal justice authorities to closed institutions run by the youth care services.

192. To make this change possible, the Youth Care Act was amended. The amended Act provided for a transitional period until 31 December 2009 to allow for capacity building. From 1 January 2010 onwards, young people who are subject to a closed youth care order under civil law must be placed in a closed youth care institution. The order is made by a children’s judge.

193. The young people who are institutionalised under the “Youth Care Plus” scheme often have a range of problems. Almost all have externalising problems such as aggression and rebellious behaviour. Over half of them also have internalising symptoms such as depression, feelings of insecurity, and anxious behaviour. In addition to their own behavioural problems, the young people also frequently have problems within the family, besides which over 60% of them belong to high-risk groups of friends. Research shows that almost all the young people who end up in the “Youth Care Plus” scheme have already received treatment before then. On average, this treatment has been interrupted six times. Another finding is that there are few differences between the young people admitted under the “Youth Care Plus” scheme and those who end up in a young offenders’ institution.

194. Youth Care Plus is a very rigorous form of youth care involving restrictions on young people’s freedoms. Within five years, Youth Care Plus must be an integral part of youth care. By then, placement in a closed setting will be one of the possible ways of treating a young person with serious behavioural problems. It is neither the beginning nor the end of such treatment, but part of the care for the young person involved. To achieve this, strenuous efforts will be made over the next few years to develop care procedures, boost quality, and devise effective methods.

195. At present, Youth Care Plus is still a separate form of youth care that is funded by, and under the overall control of, central government, and as such distinct from open youth care. In the new system, municipal authorities will be responsible for both (see Chapter VI.C. Social Security and Youth Care).

### **4. Quality**

196. Care must be of high quality and its content must fulfil certain conditions. The quality of care can be safeguarded and improved at diverse levels: at the level of clients, professionals, interventions, and youth care organisations. Depending on the complexity of the services offered and the importance that individuals attach to them, certain occupations will be professionalised. These professionals must register and will be subject to disciplinary law based on the profession’s code of ethics, if possible supplemented by state-of-the-art practice laid down in guidelines.

197. To improve the quality of youth care organisations, benchmarks have been developed, and these organisations use performance indicators for input, throughput and output, rather than the outcome, which is harder to measure. They are also investing in the effectiveness of interventions. The Youth Care Inspectorate serves as the watchdog that oversees the system as a whole. The inspectorate applies indicators to the youth care organisations to determine when and where to deploy its investigative powers.

##### **5. Hague Convention on Parental Responsibility and Protection of Children**

198. On 31 January 2011, the Kingdom of the Netherlands ratified for the European part of the Kingdom, the Caribbean part (the islands of Bonaire, St Eustatius and Saba) and Curaçao the 1996 Hague Convention on Parental Responsibility and Protection of Children,<sup>14</sup> which entered into effect as from 1 May 2011. The aim is effective cooperation in matters relating to the international protection of children. This is in line with article 11, paragraph 2 of the CRC.

199. The Central Authority for the European and Caribbean parts of the Kingdom is the Ministry of Security and Justice. For Curaçao the Central Authority is the Ministry of Justice. Work is currently under way with the organisations concerned on a plan to implement the Convention on Parental Responsibility and Protection of Children. In June 2011, a meeting was held with the Special Commission of the Hague Conference on Private International Law to discuss a draft handbook for the purposes of implementation.

##### **6. Homeless young people**

200. Homeless young people have been shown to have a wide range of highly complex problems, making it difficult to devise effective ways of helping them. Partners such as municipal and provincial authorities and the care sector therefore agreed in 2009 to join forces in devoting extra attention to this group.

201. The new definition of homeless young people is “people aged under 23 who are either roofless or in residential homeless services, and who suffer from multiple problems”. The Netherlands had approximately 3,600 homeless young people on the reference date. This translates to an annual figure of about 8,000. To achieve the shared objective of “getting all homeless young people off the streets”, an action plan for homeless young people was devised with all the parties involved. A support programme will be made available from 2011 to 2013 to help municipalities in this endeavour.

#### **Article 21 Inter-country adoption**

202. The Act on the placement in the Netherlands of foreign foster children with a view to adoption (*Wet opnemng buitenlandse kinderen ter adoptie*) provides for adoption by married couples of the same sex or of different sexes and by a single individual. With the introduction of the possibility of adoption by same-sex couples as from 1 January 2009, children born into, and/or raised and cared for in, these permanent relationships acquired the protection, legal and otherwise, that they need.

203. Great value is attached to probity and scrupulousness in cases of inter-country adoption. The basic principles are the criteria and safeguards laid down in the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption

<sup>14</sup> Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children: The Hague, 19 October 1996.

("Hague Convention on Adoption"). To implement them, the following measures have been taken.

204. The Youth Care Inspectorate (IJZ) monitors Dutch adoption organisations that mediate in adoption. For instance, in 2007 it investigated the activities of a licensed inter-country adoption agency in response to reports of possible abuses in India between 1995 and 2002. In 2010 the IJZ investigated the activities of two licensed agencies in the inter-country adoption of seven Chinese children. It has also inspected all the agencies concerned to assess the quality of their mediation work, besides which it carried out a study of the problems in the Dutch adoption system.

205. To set a standard for the quality of mediation in adoption, the licensed agencies themselves, in consultation with the Ministry of Security and Justice, developed a Quality Framework for Licensed Inter-country Adoption Agencies in 2008. This quality framework is binding on all licensed agencies from 1 January 2010 onwards. The IJZ uses it as an evaluation framework.

206. In 2006 consultations started on a draft act to revise the adoption legislation. The draft act incorporated more guarantees for safe adoption and proposed new age limits for prospective adoptive parents. Because of the diverse reactions to this act, the then justice minister appointed the Kalsbeek Committee, which studied ways of striking the right balance between the interests of the adoptive children and the desire of prospective adoptive parents to form a family, and sought to define the government's role in this respect.

207. Where possible, the Kalsbeek Committee's recommendations were adopted immediately to improve the adoption process. Thus, a special adviser was appointed with responsibility for international cooperation and for improving the information position in safeguarding the rules of the Hague Convention on Adoption. A faster procedure has been developed at the Immigration and Naturalisation Service (IND) for issuing the necessary documents for entry into the Netherlands. Investments have been made, in conjunction with the Ministry of Health, Welfare and Sport, in better post adoption services for both adopted children and adoptive parents.

208. The Act of 6 July 2011 amending the Placement for Adoption (Children of Foreign Nationality) Act in connection with the introduction of a temporary scheme giving adoptive parents a contribution towards the costs incurred in relation to inter-country adoption (Bulletin of Acts and Decrees 2011, 370) provides that adoptive parents will receive a contribution of €3,700 towards the costs of adoption. The scheme applies to children adopted between 1 January 2009 and 31 December 2012.

209. In cases in which it has become known that illegal adoption has taken place, legal action is taken against the adoptive parents. There have been several such cases in recent years. Since 2007, the Central Authority has intensified its contacts with the central authorities of other states of origin and receiving states. These contacts serve as a basis for decisions on whether to suspend adoption procedures.

210. Regarding limited or "simple" adoptions, the general policy is that the Netherlands will only cooperate with countries of origin (see below) that agree to having a "simple" adoption in their own countries converted into a "full" adoption in the Netherlands by court judgment. In this way, the Netherlands is implementing the provisions of the Hague Convention on Adoption and recommendation 46. In the case of "simple" adoption the adoptive parents establish a legal relationship with the child but its family law ties with the biological parents are not severed. In the case of "full" adoption the legal ties with the biological parents are severed and the child has family law ties only with its adoptive parents.

Table 3  
**Figures on inter-country adoption**

<i>Children adopted in Dutch families</i>					
<i>Year</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
No. of children	816	782	767	682	705

#### 1. **European Convention on the Adoption of Children (Revised)**

211. The Netherlands signed this Convention on 30 November 2009 and ratified it in 2011. The Convention aims to lay down safeguards that ensure that adoptions, including those that do not fall under the Hague Convention on Adoption, take place in the child's best interests. It provides for a retention period of at least 50 years for adoption files. Under current Dutch law, the retention period is still set at 30 years. The European Convention on the Adoption of Children will apply to the European and the Caribbean parts of the Netherlands, Aruba, Curaçao and St Maarten.

#### 2. **Aftercare**

212. In response to the recommendations of the Kalsbeek Committee, a plan of action was drawn up aimed at improving the connection between aftercare for adopted young people and their parents and mainstream social services. The preferred method is based on offering regular services in most cases but also providing special care where it is needed.

213. This method assigns an important role to Youth and Family Centres, which should function as easily accessible primary services for adoptees and their parents, as they do for young people and families in general. A pilot project has been set up to implement the proposed method.

### **Article 11** **International child abduction**

214. The Netherlands has taken measures to ensure that effective action is taken in any case of international child abduction. These will shorten the return procedure, while still offering the parents of the child concerned the option of mediation. In addition, the Central Authority's competence to represent those concerned in court is abolished as from 1 January 2012.

#### 1. **The expedited procedure**

215. The time taken for the return procedure in cases of international child abduction has attracted criticism in the past. Depending on the circumstances, this procedure may take a long time, sometimes years. When this is the case, the basic principle of the Hague Convention on the Civil Aspects of International Child Abduction ("the Hague Convention on International Child Abduction") — "no discussion before the child is returned" — is seen as unduly rigid, since the child may have been in the Netherlands for years by then. For this reason, an expedited procedure has been put in place (following the positive evaluation of a pilot project).

216. An expedited procedure is in the child's interests. Within six weeks of a request being submitted to the Central Authority, an intake, takes place and if possible an attempt at mediation as well. If the parents do not reach a settlement, an application is submitted to the district court. The district court proceedings also take six weeks. The district court holds a hearing two weeks after the application has been submitted. If there has been no mediation

in the preliminary stages, the court considers the scope for mediation, taking into account the facts of the case and the parents' wishes. Two weeks are allowed for the mediation procedure. If the parents have not reached an agreement by the end of two weeks, a second hearing is held, after which the district court decides on the application within two weeks. A further two weeks are allowed for lodging an appeal at the court of appeal. A hearing is held two weeks after an appeal has been lodged, followed by judgment two weeks later. This brings the total throughput time to a maximum of 18 weeks (three times six).

217. On 1 November 2009, the International Child Abduction Centre set up a Mediation Bureau which makes all the arrangements relating to mediation, leaving mediators and parents free to concentrate wholly on the mediation itself. The Mediation Bureau is subsidised by the Ministry of Security and Justice.

## **2. Changes in legislation**

218. To make the expedited procedure work, only The Hague district court hears proceedings relating to the return of children<sup>15</sup>. Therefore the Implementing Act has been modified since 1 January 2012. The Central Authority no longer represents one of the parents in court; a lawyer does so instead. Furthermore, appeals in cassation will be confined to cassation in the interests of legal uniformity.

## **3. The State will no longer act in international child abduction proceedings**

219. Until 1 January 2012, the Central Authority (the part of the Ministry of Security and Justice that is responsible for implementing the Hague Convention on International Child Abduction) represented the foreign parent in court when a child has been abducted to the Netherlands by the Dutch parent. In the new situation, the Central Authority refers the foreign parent to the International Child Abduction Centre or the Legal Aid Council to enlist the services of a lawyer.

220. The Implementing Act was modified to meet the objections of Dutch parents who were involved in return cases. Their criticism focused on the fact that besides representing people in court, the Central Authority also has an obligation to take all appropriate measures to ensure either that the child is returned voluntarily or that a friendly settlement is reached. This may lead to confusion and suspicion on the part of the parent who abducted or kept the child without due authorisation.

221. In addition, some have complained that it is wrong for the Central Authority (the State) to be conducting a case against a Dutch citizen. What is more, the Central Authority's representation at law of the applicant may prejudice the equal treatment of the parties. The introduction of the modified Implementing Act means that the implementation practice in the Netherlands will correspond to the situation in the vast majority of other States that are party to the Hague Convention on International Child Abduction.

## **4. Figures on international child abduction**

222. In 2009 the Central Authority dealt with a total of 172 applications under the Hague Convention on International Child Abduction. Of these, 27 related to international access arrangements and 145 to international child abduction. The abduction cases were divided into 42 "incoming" and 103 "outgoing" cases. Of the 42 incoming cases, 40 (approximately 95%) had been concluded by the reference date; for the outgoing cases, the figure was 78 out of 103 concluded (approximately 75%). In total, 242 children were involved in the

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<sup>15</sup> Letter of 14 September 2009, House of Representatives 30072, no. 25.

172 applications. Of 145 applications for a child's return, 14 turned out not to relate to child abduction within the meaning of the Convention.

223. In 2010 the Central Authority dealt with a total of 174 applications. Of these, 24 related to international access arrangements and 150 to international child abduction. The abduction cases referred to were divided into 54 incoming and 96 outgoing cases. Of the 54 incoming abduction cases, 27 (50%) had been concluded by the reference date; the figure for the outgoing cases was 53 out of 96 concluded (approximately 55%). In total, 243 children were involved in the 174 applications. Of 150 applications for a child's return, 12 turned out not to relate to child abduction within the meaning of the Convention.

224. Both in 2009 and in 2010, the abducting parent in both incoming and outgoing cases was more frequently the mother than the father. In access cases, the applicant was still, in the vast majority of cases, the father. The figures for 2009 and 2010 also reveal a relatively large number of abductions to countries close to the Netherlands (Belgium, Britain, Germany and France), but Turkey is also a relatively common destination (17 outgoing cases in 2010). Where incoming cases are concerned, the countries of Western Europe are most prominent, besides which Poland (5 cases in 2010) and the United States (5 cases in 2010) also feature. Applications for a child's return following abduction to a non-State party to the Convention numbered 18 in 2009 and 15 in 2010. In cases not covered by the Hague Convention on International Child Abduction, the Ministry of Foreign Affairs mediates to ensure that the application for return is brought to the attention of the local authorities through diplomatic channels. Most of these cases concerned abduction to Muslim countries.

## 5. Recent developments

225. In 2009 there was a fall in the total number of incoming cases relating to both international access arrangements and international child abduction (from 59 in 2008 to 48 in 2009), but in 2010 the number of cases rose again, to 63. The total number of outgoing cases rose by 15 in 2009 (from 109 in 2008 to 124 in 2009) but fell by 13 cases to 111 in 2010. In the disposal of incoming cases involving applications for a child's return, there has been a distinct increase in the number that conclude with a friendly settlement between the parents.

226. In 2008 there were 4 friendly settlements between the parents in incoming cases, in 2009 7 and in 2010 8. The number of cases requiring a court ruling numbered 12 in 2008 for incoming cases (of which 7 applications were granted and 5 denied). In 2009, 9 incoming cases ended in a court ruling (5 granted, 4 denied) and in 2010 only 7 (5 granted and 2 denied).

227. Efforts are geared towards reducing the number of incoming cases that have to be decided by the court. The expedited procedure (described above) may have helped to achieve this, through the clear emphasis on mediation. In outgoing cases, the Central Authority can exercise less direct influence on the way in which applications are dealt with, but in these cases too, efforts focus as far as is possible on achieving a friendly settlement, in the interests of the children.

## Article 19

### Domestic violence, sexual abuse of children, and neglect

228. In accordance with recommendation 38, the recommendations of the United Nations Study on Violence against Children were taken into account when devising the actions and measures referred to in this section.

## 1. National action plan on child abuse and neglect

229. The National Action Plan on child abuse and neglect “Children Safe at Home” was carried out from 2008 to 2010. It focused on a number of key objectives: the prevention of child abuse, identification, stopping it where it occurs, and minimising the damage caused to a minimum.

230. The primary components of the Action Plan were as follows:

- A regional programme to tackle child abuse was carried by 35 designated “central municipalities”;
- A publicity campaign aimed at raising awareness and prompting action;
- Introduction of the Domestic Violence and Child Abuse Protocol Act;
- Knowledge development, e.g. the second National Incidence Study of the Abuse of Children;
- Reduction of throughput times at the Advice and Reporting Centres for Child Abuse and Neglect and the Child Protection Board.

231. The main focal points were identifying child abuse and stopping it where it occurs.

232. A key element of the Action Plan was rolling out the Regional Approach to Child Abuse across the country, whereby the 35 designated “central municipalities” received financial support from central government. Partnerships were forged among all parties involved in fighting child abuse, along with a procedural plan and a training plan. By the end of 2010, 25 regions had implemented the regional approach. To consolidate it and ensure its implementation in the other ten regions, the municipalities were given supplementary financial support in 2011. In the next few years it is important to maintain and consolidate the efforts to tackle child abuse at regional and local level.

233. Through the Regional Approach to Child Abuse the government has invested in a joined-up approach in the regions. Many sound initiatives have been undertaken on training, agreements about strategy, and cooperation. Prevention is an important part of this approach and takes a variety of forms. In some parts of the country the emphasis is on risk factors, linking up with the child abuse approach followed at Youth and Family Centres where parenting support is provided; in other regions, however, specific interventions have been implemented. Best practices will be publicised among all municipalities.

234. Sustainably embedding the joined-up approach in local youth and safety policy will ensure that tackling child abuse continues to be a priority, with the focus at local level on identifying, stopping and limiting the damage caused by child abuse and neglect.

235. In November 2011 the State Secretaries for Health, Welfare & Sport and Security & Justice devised a new action plan for the Regional Approach to Child Abuse for 2012 to 2016. The emphasis is on preventing child abuse, pooling resources within a multidisciplinary approach and tackling sexual violence. Measures already taken to identify cases of child abuse, such as the reporting protocol, are being continued. At the same time the government wishes to improve coordination between the various approaches to tackling domestic violence. To ensure that children grow up in a safe and protected environment it is also vital to consider the way in which violence between domestic partners is tackled. To this end, a government-wide strategy for tackling violence in dependency relationships is introduced. It includes an action plan to prevent young people becoming the victims of forced marriage. Prevention is key to this approach, which addresses the link between forced marriage and honour-related violence and the abandonment of women and children in the country of origin.



236. In 2010 the Youth Care Inspectorate published two reports on the physical safety of children and made significant recommendations regarding the field of youth protection. At the beginning of 2011 the Dutch Safety Board published a report on the physical safety of children, containing important recommendations on how to guarantee their safety in the medical sector, youth care and youth protection services and the criminal justice system. In 2011, the Health Council of the Netherlands conducted a study on the treatment of the effects of child abuse. Recommendations and follow-up measures based on these reports have been incorporated in the new action plan on child abuse and neglect.

## 2. Publicity campaign

237. To increase alertness to signs of child abuse among the public at large, especially those in a child's immediate surroundings, a publicity campaign was conducted in three consecutive years, entitled "Child abuse, what can I do?". The campaign, which was a response to recommendation 37, sought in the first place to raise awareness and help people identify signs of abuse, and in the second place to encourage them to report their suspicions to an Advice and Reporting Centre for Child Abuse and Neglect (AMK). From 2012 onwards, child abuse will be one of the themes in a wide-ranging publicity campaign on the theme of violence in relationships of dependency.

## 3. Figures on reports of child abuse

238. Over the past few years the focus has been on identifying and reporting child abuse. This has led to a rise in the number of times the AMKs have been contacted. Professionals and people in a child's immediate surroundings can ask an AMK for advice about child abuse or report their concerns to the AMK, which can follow them up by conducting its own investigation.

Table 4

### Figures on reports of child abuse

	2006	2007	2008	2009	2010
No. of times advice provided	27,929	33,643	36,790	42,849	43,925
Investigations	13,815	16,932	16,156	16,587	18,076
Total no. initial contacts	41,744	50,575	52,946	59,436	62,001
Increase relative to previous years		21%	5%	12%	4%

## 4. Protocol

239. Between 2004 and 2006, efforts were made to encourage the use of the Child Abuse Protocol. The use of protocols proves to be effective. Professionals who have a protocol report cases three times as often as those without one. 40% of professionals who come into contact with families and children in the course of their work are already using a protocol. To ensure that the rest do so, it has been decided to introduce the Domestic Violence and Child Abuse Protocol Act in 2012.

240. This means that organisations in the healthcare, youth care, education, childcare, social support (welfare) and justice sectors must work with a protocol and must publicise it and encourage its use. A protocol contains a step-by-step procedure that shows professionals how to respond to signs of domestic violence and child abuse.

241. With a detailed implementation road map in 2010 and 2011, central government is encouraging organisations to start using a protocol straight away, so that they are prepared before the Act enters into effect. This road map consists of communication campaigns, the development of training courses (including e-learning modules) and a toolkit including a basic model for the protocol, an app with its diverse steps, and a checklist for managers responsible for introducing a protocol into their organisation. The Domestic Violence and Child Abuse Protocol Bill provides that Domestic Violence Advice and Support Centres (SHGs) are to become the formal reporting centres for domestic violence, and that AMKs and SHGs must collaborate in cases involving both domestic violence and child abuse.

## **5. Temporary Domestic Exclusion Order Act**

242. On 1 January 2009 the Temporary Domestic Exclusion Order Act (*Wet tijdelijk huisverbod*) of 9 October 2008 (Bulletin of Acts and Decrees 2008, 421) and the Temporary Domestic Exclusion Order Decree (*Besluit tijdelijk huisverbod*) of 20 October 2008 (Bulletin of Acts and Decrees, 422) entered into effect, making it possible for mayors to impose a domestic exclusion order on a perpetrator of domestic violence, in situations of acute threat (or a serious suspicion of such) to the victim and any children involved. A domestic exclusion order means that the person concerned (the “excluded person”) may not enter his home or have any contact with the other occupants for ten days. It can be extended to a maximum of four weeks. The order is intended to prevent the situation escalating and to give an opportunity to provide help.

243. The Temporary Domestic Exclusion Order Act also provides an opportunity to impose domestic exclusion orders in cases of suspected child abuse. This expands the range of statutory orders that can be made in relation to child abuse besides the scope for imposing a child protection measure, which may or may not include a (compulsory) care order for the child. The mayor may impose a domestic exclusion order following consultation with the AMK. In imposing a domestic exclusion order, a careful assessment must be made of what would be in the child’s best interests and how the child’s safety can best be guaranteed. In principle, a domestic exclusion order cannot be imposed if it would mean leaving the child or children at home alone.

244. The process evaluation of domestic exclusion orders shows that the social services often fall short in helping children. The Ministry of Health, Welfare and Sport has commissioned a more detailed study of the assistance given to children caught up in domestic violence and will undertake follow-up measures. Municipalities have been informed of the findings of the process evaluation. The evaluation of the Temporary Domestic Exclusion Order Act is due to be published in 2014.

## **6. Police figures on domestic violence**

245. Where domestic violence is involved, children and young people are particularly vulnerable. Domestic violence directed against children is known as child abuse, and has many guises. Besides being the actual victim of physical or psychological violence, witnessing or hearing domestic violence also qualifies as child abuse. Research findings indicate that the short-term and long-term impact of such experiences may be considerable.

246. The figures for 2008 are as follows. One out of eight (11.9%) domestic violence victims was under 18 years of age; 1.9% of the victims were under 6, 2.8% were aged between 6 and 12, and 7.2% were between 12 and 18 years of age. In contrast to the total group of victims (in which almost 77% were female), the proportions of male and female victims in the under 12 age group were almost the same (49% male, 51% female). In comparison to other age groups, young victims are found particularly in cases of sexual domestic violence.

247. Almost half of all victims of sexual domestic violence (43.8%) are under 18 years of age: 8.4% are under 6, 12.4% between 6 and 12, and 23% between 12 and 18. Police figures further show that aside from being victims of domestic violence children frequently witness it, since 15.4% of all witnesses of domestic violence are under 18 years of age.

## **7. Child Protection Board Quality Framework**

248. The working methods of the Child Protection Board are laid down in the 2009 Quality Framework, drawn up by the Minister of Security and Justice, which defines guidelines for the day-to-day work of the Board's staff. The document describes matters such as how an investigation is conducted, the information to be included in reports, and how long an investigation may take.

249. The Board works with protocols that prescribe how the Board must respond in specified cases. This ensures that every investigation is conducted as much as possible in the same way, and that clients can find out what they can expect of the Board. The quality framework and the protocols apply to all cases referred to the Board from 1 January 2009 onwards (see [www.rvdk.nl](http://www.rvdk.nl))

## **8. The prevention of sexual abuse in voluntary organisations**

250. A cohesive package of measures has been developed jointly with the national volunteer centre NOV, Scouting Nederland and the Dutch national Olympic committee and sports federation (NOC\*NSF). The measures are designed to prevent young people falling victim to sexual abuse or harassment in voluntary organisations. The project entitled "In Safe Hands" has developed a toolkit that includes a code of conduct, rules on how volunteers relate to children, risk analysis, a recruitment policy, the requirement of a certificate of good conduct and a reporting protocol. The toolkit is digitally available on the website [www.inveiligehanden.nl](http://www.inveiligehanden.nl).

251. Project activities currently focus on setting up a uniform body of disciplinary law directly linked to a registration system. The project is financially supported by the ministries of Security & Justice and of Health, Welfare & Sport. The NOC\*NSF and the Judicial Information Service (JustID) have jointly developed a registration system — known as the "reference list" — that records the names of individuals active within the voluntary sector on whom a disciplinary sanction has been imposed. The registration system has been tested by JustID and NOC\*NSF staff.

252. From 2011 to 2013, NOV will be receiving a follow-up subsidy for setting up a disciplinary tribunal system in the voluntary sector and the maintenance of a reference or registration list.

## **9. Female genital mutilation**

253. From 2006 to 2010, pilot programmes were conducted in the six regions where female genital mutilation (FGM) was believed to occur most frequently: Amsterdam, Tilburg, Rotterdam, The Hague, Eindhoven and Utrecht. The Ministry of Health, Welfare and Sport gave these regions financial support to tackle the problem vigorously, with Municipal Health Services bearing primary responsibility. Informative sessions were held, with the Youth Healthcare Services talking to parents, and information was provided by and for the target group. In 2010 and 2011 VWS subsidised the municipal health services to safeguard the informative sessions with the Youth Healthcare Services. This approach has now been laid down in the guidelines on female genital mutilation issued by the Youth Healthcare Services. It is up to municipalities to assume and implement this responsibility. At central government level FGM is being incorporated into the comprehensive policy on tackling violence in dependency relationships, such as in the Domestic Violence and Child

Abuse Reporting Code Act. At local level, FGM prevention is carried out by the youth health care services.

254. Since 2011, parents from high-risk countries have been issued with a Declaration against FGM. This document states that female genital mutilation is prohibited in the Netherlands and that it is bad for the mental and physical health of women and girls. The purpose of the declaration is to help parents and girls to withstand pressure from relatives, friends or others during visits abroad. The Youth Health Care Services will issue the declaration to parents from high-risk countries (such as Somalia, Sudan and Ethiopia), for instance during visits to baby and toddler clinics.

255. Pharos (the FGM knowledge institute) is conducting an evidence-based study. It will estimate how many girls in the Netherlands are in danger of FGM, how many women in the Netherlands are already circumcised, how many women and girls require care, and whether “living in the Netherlands” is a reason not to practise FGM.

## **VI. Basic health and welfare**

### **Article 23**

#### **Disabled children**

256. Where possible, government measures to protect and encourage participation of disabled people focus attention on the position of disabled children, helping them take part in sport, for example. There are many organisations representing disabled people in the Netherlands, including organisations for disabled children and their parents. Together with umbrella organisations for disabled people and bodies like the Equal Treatment Commission these organisations work explicitly on awareness raising, provision of information and communication, for example in relation to extension of the scope of the Equal Treatment of Disabled and Chronically Ill People Act and primary and secondary education. They often target schools.

257. Measures are also needed to prevent, identify and effectively tackle transgressive behaviour (including sexual violence) towards the disabled, including the mentally disabled, and to provide after-care for victims. These measures should be embedded in the comprehensive approach to tackling violence in dependency relationships and also be linked to the infrastructure of the current action plans on combating abuse and neglect of the elderly and children. The aim will be to break through taboos, give people the tools to act and make the parties involved accountable.

258. A research study by Rutgers WPF for the Ministry of Health, Welfare and Sport reports specifically on sexual violence against young people with a disability. The study investigated forms of sexual violence ranging from offensive comments and forcing people against their will to be filmed or photographed in activities of a sexual nature, to forced participation in sexual acts and actual or attempted rape. It also investigated at what time in the victim’s life this sexual violence took place. The study found that over 11% of men and 25% of women with a physical disability had experienced sexual violence in their youth. The figures for people with a visual disability and a hearing impairment were 8% and 3% for men and 17% and 20% for women. In the mentally disabled group, approx. 12% of men and over 25% of women had been subjected to sexual violence in their youth.

259. The findings of this research study are disturbing, both in a general sense and particularly with reference to the abuse of children. The envisaged measures seek to address the following areas:

- Prevention

Special efforts are under way to help disabled people to stand up for themselves, especially in their youth. The best way to do this is through education and resilience training in special schools. This should boost self-confidence, encourage assertiveness, instruct clients in self-defence techniques and teach people to recognise and respect their own and other people's boundaries, sexual and otherwise.

- Pinpointing and tackling problems

Professionals have an important part to play in identifying domestic violence. To support them in their tasks, the government intends to introduce a domestic violence and child abuse protocol, which of course also covers sexual abuse. As of 1 January 2012, the Healthcare Inspectorate helpdesk has assumed a new identity as the Healthcare Inspectorate Reporting Centre, to which all incidents should be reported from that date on, including sexual violence towards and abuse of the disabled and the elderly. It is essential for providers to be transparent about sexual violence within their organisations and for there to be an open reporting culture. In addition, a toolkit is being developed, comprising a set of indicators and background information. This should equip care professionals to pinpoint transgressive behaviour and teach them how to tackle it.

- After-care

The investigation of child abuse by the criminal justice authorities is to be stepped up. The government has also decided that alternative sanctions may not be imposed for child abuse. In general, tougher penalties are to be imposed for offences of this kind.

260. The Disability and Society Task Force (*Taskforce Handicap en Samenleving*), established in 2004, spent four years contributing to the public debate on disabled people's participation in society. This led to a number of guidelines detailing how education can be organised in such a way as to enable disabled children to attend mainstream schools. Many social support courses now cover disability issues. Easily accessible specialist training is also available.

261. In the field of health care, programmes have been developed for early detection and intervention in the event of (suspected) developmental disorders in children. Since 2006 client/parents' organisations, care providers, special schools and health insurance companies have been working together in the national network for comprehensive early assistance in a bid to improve the assistance offered to the families of children with a disability or chronic illness. With the support of the Ministry of Health, Welfare and Sport, they have tested and applied their model for collaboration and early intervention within the system. Application of the model has meant that:

- Developmental disorders are recognised and comprehensively diagnosed in more children under the age of seven;
- Parents receive comprehensive advice and more information on the care and upbringing of their child; and
- The child and its parents are tracked, including during the transition to school. Having completed the pilot phase, the partner organisations are now focusing on nationwide introduction of the model.

262. The Netherlands has signed the Convention on the Rights of Persons with Disabilities and is currently working its ratification. Parliament and disabled peoples' organisations are regularly updated on progress.

### **1. Extension of the scope of the Equal Treatment of Disabled and Chronically Ill People Act**

263. Since 1 August 2009 compulsory schooling (primary and secondary education) has also come under the Equal Treatment of Disabled and Chronically Ill People Act. The legislation has applied to vocational education and higher education since December 2003. The entire education system is thus now covered by the Act, which bans discrimination on the grounds of disability. Discrimination also includes failure to make effective alterations to allow disabled pupils to attend classes, unless this would impose an unacceptable burden on the school.

264. However, it is vital that at the point of enrolment, the parents or older pupil should indicate in advance the kind of modifications that are necessary, so that the school can take these into account and can assess whether it has the resources to provide them.

265. In this context, it should be noted that in primary and secondary education it is possible to seek the assistance of independent educational consultants funded by the Ministry of Education, Culture and Science. In the event of problems, they advise and guide the parents and the school about how the needs-assessed pupil can attend the school of their choice. They also advise on any modifications to be made and on which other organisations can be involved. About 800 cases are dealt with every year, the majority of which are resolved rapidly and satisfactorily. This service prevents the need for problems to be referred to the Equal Treatment Commission for its findings.

266. Pupils (or their parents) who believe they are being discriminated against on the grounds of a disability can bring the case to the Equal Treatment Commission, which was established under this legislation.

### **2. Services and aids**

267. Under a scheme which has existed since 1 January 2009, disabled people who participate in mainstream education are eligible for reimbursement of the costs of necessary services and aids. These include transport services, sign language interpreters and aids such as specially adapted computers with a Braille display for the visually impaired.

### **3. New developments: appropriate education**

268. In its third report on the implementation of the Convention on the Rights of the Child the Netherlands described its system of individual needs provision in primary and secondary education. The report focused on special education and the Dutch policy of encouraging and enabling pupils who need extra support to attend a mainstream school (with funding in the form of a personal budget).

269. A great deal of experience has since been gained with this system, and a number of problems have come to light. The system entails excessive bureaucracy, partly as a result of the stringent assessment criteria. It also causes children to be labelled, which is not always in their interests, and can lead to significant overspending. It has also been found that children assessed as having special needs are by no means guaranteed an adequate school place. Parents have to find a place themselves, and are often sent from one place to another, as schools refuse to admit their child. This has meant, among other things that some pupils receive no education, are forced to stay at home or end up on a waiting list. Finally, it has also been found that the standard of special education often falls short, partly as a result of the rapid growth in numbers. Teachers in mainstream schools often feel they are ill-equipped to deal with pupils who have special educational needs.

270. All this has prompted a review of the individual needs system, under the name "Appropriate education". The government intends to introduce a new system as of 1 August

2014 aiming for better collaboration between mainstream and special education. There will also be more scope for tailored counselling of pupils with special needs in mainstream education. All schools will be obliged to provide for pupils with specific educational needs who apply for admission. In other words, the school to which the pupil has applied is obliged to ensure appropriate teaching and special needs provision. If the school is unable to meet this obligation itself it will arrange for another specialist or better equipped school to do so. To ensure comprehensive provision, special schools and mainstream schools will work together at regional level. The system of personal budgets and the regional assessment system, which have created a lot of bureaucracy, will be abolished. The resources freed up will be incorporated into the budgets of regional consortia.

271. In the interests of raising standards, extra resources will be used to train teachers to help pupils with special educational needs. Schools for special secondary education will focus more on output, particularly preparing pupils for the job market.

#### **4. International exchange**

272. The Netherlands takes an active role in the European Agency for Development in Special Needs Education, which provides a platform for knowledge exchange and collaboration in the field of special needs provision. Its contribution has recently taken the form of submitting country reports on special education, organising a study visit for a delegation from other member states, and attending the platform's biannual meetings. The agency's current projects focus on various aspects of social inclusion and inclusive education. They are important for developing policy on special and special secondary education and appropriate education.

### **Article 24 Health and health care**

273. Children in the Netherlands are generally healthy. Nevertheless, the National Institute for Public Health and the Environment (RIVM) has indicated that there is room for improvement. The main initiatives undertaken in the period under review with the aim of improving the health of young people are described below.

#### **1. Antenatal care**

274. Reducing the perinatal mortality rate has been high on the public and political agenda in the Netherlands since early 2008. In that year, the Minister of Health, Welfare and Sport established the Steering Group on Pregnancy and Birth with the aim of reducing perinatal mortality and morbidity in the Netherlands by optimising antenatal and perinatal care. Measures have been taken in response to the steering group's recommendations. They focus mainly on removing barriers and improving collaboration between those caring for pregnant women, new mothers and their babies and improving acute obstetric care and risk selection.

#### **2. Specific measures**

275. Women need to be better informed for a healthier pregnancy. A booklet has therefore been produced for women wishing to start a family. Pilot projects have been conducted offering special consultations for women who are planning to become pregnant, in both urban and rural areas. The Perinatal Care Institute was established on 16 June 2011 to improve obstetric care.

276. Other measures to improve collaboration and medical handover in the system include: the perinatal web-based file to improve handover in the antenatal and perinatal care

system, a focus on better handover in youth health care, perinatal audits to identify the causes of infant mortality locally and prompt local action for improvement, a research programme on pregnancy and birth, a revised list of obstetric indications, pilot projects introducing an extra ultrasound scan in the third trimester of pregnancy and new standards for acute obstetric care.

277. The municipalities have been responsible for providing antenatal education for expectant parents since 1 January 2009. They know the main target group better and can tailor provision accordingly. Antenatal education is provided by Youth and Family Centres, in addition to regular prenatal care.

### **3. Breastfeeding**

278. The WHO Code is being implemented through EU legislation on infant formula. The Dutch government is making every effort to fully implement the International Code of Marketing of Breast-milk Substitutes (recommendations 59 and 60).

279. In response to recommendations 59 and 60 that we enhance our efforts to promote breastfeeding, the Netherlands has drafted a Breastfeeding Charter. It was drawn up by parties in the field, supported by a grant for the Breastfeeding Platform from the Ministry of Health, Welfare and Sport. Parties that support breastfeeding have joined forces in the platform. One of the Charter's objectives is to implement the WHO Code. Several professional groups involved in the platform have taken a first step towards this by making a start on the development of an advertising code of ethics.

280. Up to the end of 2011 the Netherlands Nutrition Centre conducted a broad-based campaign commissioned by the Ministry of Health, Welfare and Sport to promote breastfeeding. The emphasis was on social acceptance, empowerment of women and good information for parents. The campaign helped produce a slight rise in the figures for breastfeeding over the past few years. In 2009 75% of infants were breastfed immediately after birth; 57% were still receiving breast milk after three months, and 35% after six months (Statistics Netherlands (CBS) Stateline).

281. The focus of efforts to promote breastfeeding has now shifted to women's responsibility for their own choices. The government wants to enable women to take a well-considered decision as to whether to breastfeed their child by ensuring that reliable information is available to those in search of it. The main channels for information are midwives, gynaecologists, lactation consultants and baby and toddler clinics. The provision of information in the context of giving children a "good start" is no longer specifically focused on promoting breastfeeding as an aim in itself. The Ministry continues to facilitate the provision of reliable information on breastfeeding via the Netherlands Nutrition Centre.

### **4. Youth health care**

282. The aim is to ensure that the youth healthcare service has all children on its radar. In the first four years of life, over 95% of children use the youth healthcare service. Regional differences are greater among school-age children, with the figure ranging from 80% to over 95%.

283. The monitoring of young people's development and timely intervention when something threatens to go wrong form the core of the youth healthcare system. The youth healthcare service provides parents with information about how to ensure their children grow up as healthy as possible. Once young people reach a certain age, the system shifts its focus to them. The youth healthcare service also administers the national vaccination programme. Most vaccinations are given in a child's first few years. A focus on innovation should allow more tailor-made provision, freeing up capacity for young people or families



who need more support. The youth healthcare service also intends to focus more attention on adolescents.

284. Since 2008 the youth healthcare service has increasingly worked through the Youth and Family Centres, which offer support with parenting. Municipalities have been given the task of making local youth policy more cohesive, in collaboration with schools, for example. Pupil support advisory teams exist in almost all schools. These multidisciplinary teams discuss children about whom concerns have arisen, so that the necessary help can be arranged quickly and coordinated.

285. During the period under review, the youth healthcare service's paper files have been digitised. Since 1 July 2010, it has been compulsory to start a digital file when a patient's details are registered. The idea behind this is to help raise standards in youth health care, improve the transfer of files and allow risks to be identified more quickly. All but one of the youth healthcare organisations are expected to be working either partially or entirely with digital files by the end of 2011. The rules set out in the Medical Treatment Contracts Act apply to digital files in the same way as to paper files. This means that files are accessible only to care providers who are directly involved in the treatment of a child.

286. The government set out new priorities for prevention in its national health policy document of May 2011, in which young people are a key target group. The main aim is to ensure young people get more exercise. The document also looks at sexual health and ways of reducing obesity, depression, diabetes and substance abuse. The focus is on promoting a healthy lifestyle, identifying risks at an early stage and making young people more resilient, so they are able to resist temptation. It is important to set boundaries and explicitly promote basic good health.

## **5. National vaccination programme**

287. All children in the Netherlands are offered vaccinations as part of the national vaccination programme. Participation is voluntary; there is no obligatory vaccination in the Netherlands. The average rate of vaccination is above 95%, much higher than the WHO recommendation. The National Institute of Public Health and the Environment's Centre for Infectious Disease Control provides information on the vaccination programme and supports professionals responsible for its implementation. The aim is to enable parents and young people to make a well-considered choice about whether to participate in the programme. For reasons of principle, a small proportion of the population is critical of the practice of vaccination, and thus also of the national vaccination programme.

288. The vaccination programme has been altered as follows since the last report:

- Into the programme for 12-year-old girls in 2010. The rate of uptake is gradually increasing. In 2011 56% of the first group (girls from the 1997 cohort) who were offered the vaccination under the programme actually had all three vaccinations. Prior to this, the 1993-1996 cohorts were given the vaccination, starting in 2009.
- Universal vaccination of infants against hepatitis B was The vaccination against the human papilloma virus that causes cervical cancer was introduced in August 2011, in accordance with the recommendations of the Health Council of the Netherlands. Children at risk of contracting hepatitis B (approx. 20% of all children) were already offered the vaccination under the national programme. With the introduction of the universal vaccination, the Netherlands is adhering to the policy of the WHO and most other countries.

## **6. Youth mental health service**

### **(a) Provision**

289. The youth mental health service covers the children's wards of regional mental health institutions and general psychiatric hospitals, the children's wards of teaching hospitals and the nine regional institutions for child and adolescent psychiatry, which provide both peripatetic and clinical care.

290. The youth mental health service primarily treats young people with psychological disorders. These are often associated with developmental and behavioural problems. The youth mental health service is therefore part of the youth care network. It is also involved in other care networks, such as primary and specialist health care. Close collaboration and coordination between the youth mental health service and somatic care is essential. The youth mental health service also plays an important role in the care and welfare network, in the prevention and early detection of psychological disorders in schoolchildren and young people who leave school early.

### **(b) Uptake and demand**

291. The Committee recommends that financial and human resources be allocated at all levels of the mental healthcare system to reduce the waiting lists in order to ensure access to specialised services when needed. Extra financial resources were made available in 2007 to cut waiting lists. Two major breakthrough processes were funded, together with participants, in 2009 and 2010, designed to reducing waiting and throughput times. However, the demand for youth mental health services continues to rise. This is due in part to better recognition and detection of psychological problems, the growing complexity of society which can cause difficulties for some young people, and low tolerance of deviant behaviour in society.

292. The youth mental health service has grown dramatically over the past few years, particularly in 2006-2007. The service assisted 267,716 people in 2009 (this figure includes parents). 96% of the young people treated received peripatetic care, 2.4% residential care and the rest a combination, or part-time residential care. Children with psychiatric problems still have to wait too long for help from the youth mental health service. As at 1 January 2010, 10,100 youngsters had been on the waiting list for longer than the norm (at 1 January 2009 the figure was 11,200). Of these, 4,500 were in the registration phase, 4,100 in the assessment phase and 1,500 in the treatment phase. Compared with 2009, the number on the waiting list had fallen by 10%. At the same time, the number of young people in treatment had risen by 5%. The system is therefore working more efficiently.

### **(c) Sexual health (recommendation 56)**

293. In the Netherlands, HIV/AIDS prevention is part of broader policy on sexual health. This policy focuses on promoting sexual health and preventing problems like sexually transmitted diseases (including HIV), unwanted pregnancy and sexual violence. The government recently defined four key values in this area: autonomy, resilience, an understanding of mutual consent and respect, and right of access to information and high-quality care and assistance when needed.

294. Young people are an important target group of Dutch policy on sexual health. Teaching packs and other interventions on sexuality/sexual health are developed specially for young people, for use both in and outside school. There is also a reliable website for young people containing lots of information on sexuality and sexual health. Young people who are in a risk group for the spread of sexually transmitted diseases can have themselves tested anonymously and free of charge at the municipal health service. Youngsters with

questions about or problems concerning sexual health can also attend a local sexuality clinic, again anonymously and free of charge. These last two services (STD tests and sexuality clinics) will be integrated from 2012.

295. Pregnant teenagers can turn either to the regular healthcare service, or to an organisation like Fiom, which receives financial support from the government. This organisation helps teenagers decide what to do if they accidentally become pregnant, and can provide counselling if necessary.

296. From 2012 mass media campaigns on sexual health, among other things, will be discontinued. A generic mass media approach across the entire population is not in line with the individual responsibility for a healthy lifestyle that the present Dutch government supports. A comprehensive set of interventions concerning lifestyle — including sexual health — will also replace individual activities.

297. In terms of children's rights in relation to HIV/AIDS prevention, the Netherlands supports programmes in developing countries. Social protection programmes have been launched in Zimbabwe, Mozambique and Ethiopia since 2009. The aim of the programmes is to protect vulnerable children and help households participate fully in the economy. Children registered at birth are eligible for healthcare services, nutrition programmes and education. One important component of the social protection programmes is the cash transfer system, whereby families are given money to enable them to purchase food or services themselves.

298. Several co-financing organisations work to improve the socioeconomic status of children and to protect children in developing countries. For example, the Ministry of Foreign Affairs subsidises "Foundation Wereldkinderen", which provides shelters locally for children affected by HIV/AIDS.

299. The Netherlands works via multilateral channels, including its financial contribution to UNICEF, to improve the lives of children. It also lobbies strongly in international forums for compliance with children's rights in relation to HIV/AIDS. It supports UNICEF's population registration systems, including those in Mozambique and Zimbabwe, in collaboration with local authorities. These registration systems help improve access to health care and education and enhance children's rights, particularly those of AIDS orphans and other vulnerable children.

300. The Ministry of Foreign Affairs is a member of the Children Affected by Aids (CABA) working group, which monitors and coordinates the initiatives undertaken by Dutch partners to help these children.

**(d) Equality for young LGBT people**

301. Various activities have been launched to promote acceptance and equality for young LGBT people. For example a campaign has been set up to raise awareness of individual behaviour and promote social acceptance. There has been a drive to set up more Gay-Straight Alliances (GSAs) at schools by gay and straight pupils and teachers. Steps have also been taken to promote safe online meeting places for young LGBT people, where they can chat about their experiences.

302. These activities have been continued at schools in 2012. The aim is to double the number of Gay-Straight Alliances from 150 to 300 and pursue efforts to set up websites where young LGBT people can meet in a protected online environment.

**(e) A healthy living environment**

303. Focal points are curbing smoking, obesity, drug abuse, sexually transmitted diseases and teenage pregnancy and abortion.

304. Environmental impacts often affect children's health the longest and the most seriously. Asthma and allergies, or cancer and cardiovascular disease, can result from exposure in childhood. The living environment determines whether young people are exposed to environmental factors that are injurious to health. It also partly determines their ability to adopt healthy behaviour. Children's living environment must therefore be protected. The government's health policy document, published in May 2011, focuses specific attention on this issue.

305. Half of children up to the age of 18 are not sufficiently involved in sport and other physical activity. At the same time, obesity is becoming an increasing problem. On average, the rate of obesity among young people has risen by over 40% over the past 30 years.

306. Under the National Action Plan for Sport and Activity (NASB) municipalities, with the support of the Netherlands Institute for Sport and Physical Activity, are encouraging young people to take more exercise. This includes creating an activity-friendly environment. Many civil society partners have committed to enhancing the child- and family-friendliness of communities. They include NUSO (the organisation for playgrounds in the Netherlands), Jantje Beton, the Dutch Cyclists' Union, the Johan Cruyff Foundation and the Richard Krajicek Foundation.

307. With the Sport and Activity in the Community programme, central government, along with the municipalities, the sport sector and industry, are helping create promising links between local providers of sport and exercise facilities and other parties. Policy on sport and physical activity is deliberately being combined with health policy and prevention, because sport and exercise are not only fun. People who take part in sport and other forms of physical activity lay a firm basis for an active, healthy lifestyle, and lower their risk of cardiovascular disease, diabetes, depression and some forms of cancer later in life. Sport and physical activity can also make an important contribution to the achievement of social and educational goals such as the development and resilience of children, cultivation of respect and a sporting attitude, civic participation and a better quality of life in local communities. Over the next few years 2,900 community sport coaches will be appointed, funded by various partners together, to encourage more people to take part in local sporting activities. The sport sector will ensure more suitable sporting activities are available locally.

308. The guideline for municipalities is to reserve at least 3% of their residential planning area for children's play facilities. Although this is not a statutory requirement, it provides municipalities with a rule of thumb, and encourages them to achieve this target, on their own responsibility. A handbook on playground policy provides municipalities with instruments to enable them to meet their responsibilities in a manner appropriate to the specific situation. It also includes many examples of how municipalities have dealt with various matters, allowing others to learn from them.

**(f) Healthy body weight**

309. The Netherlands is keen to ensure that children (aged 4-12) and youngsters (aged 12-18) eat healthily and grow up resilient, so that they can take responsibility for living healthily in later life. Central government is supporting several projects designed to ensure that children learn how to eat healthily, including a project whereby children eat fruit and vegetables together at morning break. The aim of this project is to improve the image of fruit and vegetables among children and increase their consumption. The government is also joining forces with other parties to promote healthy food in school canteens. Secondary schools are being encouraged to set up healthy canteens where "the healthy choice is the easy choice".

310. Under the Voluntary Agreement on Healthy Body Weight, a follow-up to the Voluntary Agreement on Obesity, 27 governmental, civil society and private sector parties are working closely together in a broad-based consortium to turn the growing tide of overweight and obesity among children and adults with a comprehensive, cohesive approach based on healthy eating and exercise. Employers' associations and trade unions, parties from the sport sector, the food industry, health insurance companies, retailers and research institutes have all signed the agreement. The Ministry of Health, Welfare and Sport is coordinating the efforts on behalf of central government.

**(g) Drugs and alcohol**

311. In line with recommendation 58, the government has instituted various measures to prevent drug and alcohol abuse among children and young people.

312. The HBSC 2009 study shows a slight fall relative to 2001 in the use of alcohol and cannabis by schoolchildren aged 11 to 16. This slight fall in alcohol consumption (ever consumed; consumption in last month) gives no reason for rejoicing, however. Binge drinking shows no sign of declining. When youngsters drink, they still drink too much. Cannabis consumption has fallen relative to 2001 and 2003. Young schoolchildren, aged 12 and 13, still consume barely any cannabis, but by the age of 16 one in five schoolchildren has used it. Almost half of youngsters who have ever smoked cannabis develop a regular habit.

313. Drug and alcohol abuse are increasingly being tackled in conjunction. The focus is on strengthening young people's resistance and providing targeted information to which they can relate. A child's ability to resist pressure to use drugs or alcohol is determined to a large extent by its home environment. Substance abuse is therefore dealt with as part of parenting support. Support in dealing with substance abuse is also provided for professionals who have a lot of contact with youngsters, such as teachers. In recent years more and more scientific studies have shown the damaging effect of alcohol and drugs on developing brains. The "no alcohol under the age of 16" message is beginning to get through.

314. The main means of getting this message across to children and young people is a special school programme on drugs and alcohol. It provides targeted information to pupils in secondary schools and the final years of primary school. There is also a campaign that provides information, and prompts youngsters to think about the implications of drug and alcohol consumption. Young people in secondary and higher education can contact the alcohol and drugs hotline or chat service if they have specific questions.

315. Parents can find support on issues like drugs, alcohol, smoking and talking to their child about such matters on several relevant websites. The school programme on drugs and alcohol also includes a meeting for parents at the beginning of the year where they are given tips on how to deal with drug and alcohol consumption by children. The information is also made available via Youth and Family Centres, which offer easily accessible parenting support.

316. The school programme on drugs and alcohol offers school boards help introducing an alcohol and drugs policy in their school. Teachers are told how drugs and alcohol can affect the behaviour of schoolchildren and receive support in recognising and alerting parents and others to substance abuse problems.

**(h) Health insurance**

317. Anyone who legally resides or works in the Netherlands is obliged by law to take out basic health insurance. This is stipulated in the Healthcare Insurance Act (*Zorgverzekeringswet*), which came into force in 2006.

318. Though illegal aliens (including minors) are excluded from the social health insurance system, they do of course require medical care at times. Care providers have a professional duty to provide the appropriate medical care. Care providers will always provide medically necessary care. It is up to them to determine, on the basis of their professional responsibility, whether care is medically necessary (recommendation 51).

319. In principle, the bill for the care provided will be sent to the patient or to his/her legal representative. If the illegal alien or his/her legal representative is unable to pay the bill, the care provider/healthcare institution will be left with an unrecoverable debt.

320. Only in cases where, despite the efforts of the care provider, it proves impossible to reclaim costs from a patient who is residing illegally in the Netherlands, his/her insurance company or another source, may a care provider under certain conditions claim a contribution towards those costs under section 122a of the Healthcare Insurance Act (see appendix, section 122a).

## **Articles 26 and 18, paragraph 2 Social security and youth care**

### **1. Social security**

321. The government finds it important that municipalities achieve an integrated approach, provide tailored services and exercise control. Improved collaboration with the education sector will also help. People will be better able to participate in society. At the same time, it will be possible to place more emphasis on prevention. Providing accessible care and support at an earlier stage is less costly than bringing in specialist care later.

322. Creating a single point of contact and integrated working are key. The municipalities will be observed for a time, to identify good examples and approaches that can be brought to the attention of other municipalities in, for example, guides and models.

### **2. Youth care services**

323. The Youth Care Act entered into force on 1 January 2005. This legislation governs young people's right to care once the Youth Care Office, the organisation that is the gatekeeper of the youth care service, has issued an indication. The legislation also stipulates that central government is responsible for the youth care system. Provincial authorities are responsible for the delivery of youth care services, for which they receive funding. They support the Youth Care Offices and ensure that the financial resources are used to provide an adequate supply of care.

### **3. Change to the youth care system**

324. Support and care for young people and families could tie in better with the capacities of young people, their parents and their social network. The Netherlands wants to make youth care more accessible, comprehensive and efficient. The aim is for children to grow up in a healthy, stimulating environment where they, their parents and others involved in their upbringing can get answers to questions about parenting and child development. The main changes in the youth care system are designed to provide support at an earlier stage, tailored provision and better coordination on family issues. In addition, support should take account of the client's own ability to cope, problems should not always be treated as medical and professionals should be given greater scope to do their job. Under the Coalition Agreement, all youth support and care services are being decentralised to municipalities, both administratively and financially. This should enable local authorities to develop

integrated policy and provide tailored care services attuned to the local situation and the needs of individual children, young people and parents.

325. Young people with relatively mild behavioural or psychiatric problems all too often end up in expensive forms of specialist care, whereas a less interventionist form of care and counselling would have been sufficient. The demand for specialist care and the costs are therefore rising. At the same time, the complexity of the current youth care system leaves some young people who have severe, complex problems without the help they need. This analysis, based on an evaluation of the Youth Care Act and the report of a parliamentary working group published in 2010, have prompted plans for radical changes to the youth care system. The proposals will be submitted to parliament in the form of a bill. The changes should take effect in 2015.

326. The change to the system of youth care is associated with the decentralisation plans mentioned above. This will put municipalities in a better position to ensure coherence between the different areas for which they are responsible. It will for example enable more efficient and effective collaboration in the system. Key principles underlying this shift are helping people to help themselves, using the social network, and working as far as possible in a demand-driven way.

#### **4. Mental health services**

327. Since 1 January 2008 curative mental health care has been funded under the Healthcare Insurance Act, rather than the Exceptional Medical Expenses Act. Since that date, mental health institutions have dealt directly with health insurance companies, though a small group of chronic patients still have their care paid for under the Exceptional Medical Expenses Act.

328. Under the Youth Care Act 2005 the Youth Care Office decides which care is most appropriate for young people with severe behavioural and developmental problems and psychiatric problems. General practitioners may also refer young patients with psychiatric problems directly to the youth mental health service. More than half of young patients are referred by their doctor. The municipalities will also become responsible for youth mental health services as of 2015.

#### **5. Access to care**

329. The Healthcare Insurance Act entered into force in the Netherlands on 1 January 2006. All residents of the Netherlands must take out insurance with a health insurance company. Insurance companies must accept everyone who applies for insurance. Children under the age of 18 pay no premiums for health insurance.

330. Given the disproportionate number of immigrants receiving more interventionist forms of care, and their low numbers in voluntary, development-oriented preventive youth care, a programme to promote diversity in youth care has been implemented (2008-2012). It should ultimately ensure that:

- Immigrant children and their parents also use general services, such as parenting support, youth work organisations and sport and cultural facilities;
- Immigrant parents and professionals detect and tackle developmental and behavioural problems at an early stage;
- The preventive approach and interventions deployed to help immigrant children, youngsters and their parents are effective.

331. Activities fall under three headings: intercultural knowledge, intercultural skills and strengthening local youth services. Three academic collaborative centres have been established.

#### **6. Interpreting and translation services**

332. Centralised payments for interpreting and translation services in the healthcare system are to be abolished. Patients/clients (or their representatives) are responsible for ensuring they can speak and understand Dutch. The principle is that, from 1 January 2012, patients/clients themselves must arrange for an interpreter if it is deemed necessary. The need for a professional interpreter differs according to the situation and the nature of the discussion. In some situations, the patient/client can engage the services of a professional interpreter at their own expense. In situations where coercive measures are being enforced, translation and interpreting services will still be provided.

#### **7. The Netherlands' reservation to article 26**

333. In recommendation 11 on the third report, the Committee advises the Netherlands to review its reservation to article 26. The Netherlands accepted article 26 subject to the reservation that this provision would not give a child an independent right of its own to social security. Children benefit from the Dutch social security system through their parents. For example, where necessary, the Netherlands provides parents with financial support for their children. This was why the Netherlands entered a reservation to article 26 of the Convention. It has since reviewed the reservation, and has come to the conclusion that the same arguments still apply.

#### **8. Multi-problem households**

334. From 2009 to mid-2011 six municipalities (Amsterdam, The Hague, Nijmegen, Eindhoven, Groningen and Enschede) conducted an experiment in collaboration with the Ministry of the Interior and Kingdom Relations and the Ministry of Health, Welfare and Sport to find an effective way of dealing with multi-problem households using a one family, one plan, one director approach. The experiment showed that far-reaching collaboration between care providers helps solve problems in families, enabling them to take control of their own lives again. The results of this experiment — the experiences of the project leaders — have been collected in an ebook and will be shared with interested organisations and municipalities in the coming period through a recently established national network. A special tool has also been developed for measuring the effects of all the effort expended on tackling multiple problems in a household. In general, it can be concluded that the method contributes to reducing nuisance and increasing safety and to fewer evictions and less use of more intensive — and thus more expensive — forms of support and care.

#### **9. Collaboration between youth inspectorates**

335. Integrated Supervision of Youth Affairs (*Integraal Toezicht Jeugdzaken*, ITJ) is a partnership set up in 2003 involving five government inspectorates responsible for overseeing organisations and services for young people. The work of ITJ focuses on the interests of the child, and is based on the CRC. In its investigations, ITJ examines problems experienced and caused by young people. One good example of a recent inspection report produced by ITJ looks at poverty, an issue that often lies at the root of other problems. Other subjects of recent ITJ investigations have included child abuse, juvenile crime, obesity and alcohol consumption by young people. ITJ investigates how well youth services are working together to solve or even prevent such problems.



336. The five inspectorates that work together in ITJ are the Youth Care Inspectorate, the Healthcare Inspectorate, the Education Inspectorate, the Public Order and Safety Inspectorate and the Work and Income Inspectorate. The State Secretary for Health, Welfare and Sport is responsible on behalf of the government.

#### **10. Less regulatory pressure in youth care**

337. Less regulatory pressure in youth care has been a policy priority since 2008. During the period under review, the attention of the government and parties working in the field has been focused on:

- Simplifying procedures;
- Reducing paperwork;
- Smarter organisation of work processes;
- Better client awareness of choices and opportunities.

338. Practical examples of ways to reduce regulatory pressure devised by youth care workers, clients and institutions themselves, and good examples from the programme for the reduction of regulatory pressure (RAP) are now being disseminated and put into practice. The regulatory pressure experienced by parents, young people and professionals was measured in spring 2011. It will take some time before results are achieved, and so this issue will remain a key focus of attention for the current government, too.

### **Article 18, paragraph 3 Childcare services**

#### **1. Legislation**

##### **Childcare Act**

339. In a growing number of families in the Netherlands, both parents work and more and more children spend time away from the home. In 2005, some 375,000 children were in some form of childcare; this figure had risen to 738,000 by 2011. The costs of childcare are shared between parents, employers and the government. Not only has the number of children in day care grown, but each child is spending more time there. The allowance paid by the government also rose between 2005 and 2008. As a result, the costs of childcare tripled between 2005 and 2010. From 2011 onwards measures are being introduced to reduce the government's contribution and raise that of parents. Nevertheless, the costs to the government will remain substantial (€2.9 billion in 2015), since good, affordable childcare gives parents the opportunity to combine work and care responsibilities.

340. The new Childcare Act entered into force on 1 January 2005, introducing "demand-side financing". The Act assumes that the costs of childcare will be borne collectively by parents, employers and the government. Since 2007 employers have paid a mandatory contribution to the government. Parents receive the government's contribution towards the cost of childcare via the tax system. Childcare institutions are competing on price and quality, now that parents are able to move to another organisation if the price is too high or the standard too low.

341. The new legislation sets specific quality requirements for childcare centres. They govern matters such as the staff/child ratio, the size of the group and staff qualifications. Each childcare institution must have an education policy, identify its own health and safety risks, and show what measures it is taking to reduce them. The local authority ensures that

quality requirements are met by carrying out inspections and listing organisations that meet the requirements in a national register of childcare centres.

342. With the Childcare Act, the government has set in motion a process for the transformation of the childcare sector, introducing more market forces and allowing parents more choice. An evaluation of the Childcare Act has carried out to study the impact of the legislation.

## 2. Government funding

343. During the 2005-2010 period government spending on childcare rose from €1 billion to €3.3 billion. Due to retrenchment, government spending was reduced to 2.8 billion in 2012.

## 3. Balancing supply and demand

344. Supply could not keep pace with the rising demand over recent years. As a result, there was little choice for parents, and competition was limited. In 2011, however, the number of places at childcare centres started to rise and waiting lists have all but disappeared. This puts parents in a stronger position.

Table 5  
Childcare 2005-2010

<i>Capacity (no. of full-time places)</i>	<i>Age group</i>	<i>2005</i>	<i>2010</i>	<i>2011</i>
Centres	0-12	199,000	414,000	n.a.
Children in childcare	0-4	224,000	376,000	323,000
	4-12	121,000	315,000	306,000
Registered childminders	0-12	30,000	131,000	110,000
<b>Total</b>		<b>375,000</b>	<b>822,000</b>	<b>738,000</b>
% of children in childcare (as percentage of total no. of children in age group)				
	0-4	29%	61.2%	52%
	4-12	7%	23.4%	23%

345. Since 1 August 2007 schools have been legally obliged — if requested by parents — to provide out-of-school care between 7.30 and 18.30, or offer facilities for other parties to do so and set requirements for them to meet. This should allow better coordination of school hours and parents' working hours, reducing the burden on both parents and school-age children.

346. Parents remain responsible for the care of their children, but schools must facilitate the alignment of education and childcare if parents so wish. Working parents with school-age children up to the age of 12 need more help in combining work and raising a family. It is easier to strike a better work-life balance once organisational problems are solved, providing parents with the opportunity to work longer hours. The key concern is that every child should have the opportunity to develop to its full potential. Collaboration between schools and childcare organisations will make an important contribution to this. The government wishes to see well-coordinated provision in the fields of education, childcare, sport and culture — known as “wraparound care” — for every child.

## **Article 27, paragraph 1-3 Standard of living**

### **1. Trends**

347. The Netherlands has a comprehensive system of social insurance and other provision that guarantees residents a minimum income that is enough to cover their living costs, provided they use the income support available and exercise financial discipline.

348. The number of low-income households has dropped since the previous reporting period: from 652,000 in 2005 (9.9% of all households) to 604,000 (8.7% of all households) in 2011. This means fewer households are on low incomes than between 2000 and 2006, when the percentage fluctuated between 8.8% and 11.8%.

349. In 2011 359,000 children aged 0-17 lived in households with an income that meets the “modest but adequate criterion”. The number of children living in poverty is expected to rise further in 2012 (11%), the highest level since the beginning of this century (source: Statistics Netherlands, 2011 poverty report). More statistical information on poverty is to be found in the annexes.

## **VII. Education, leisure and cultural activities**

### **Article 28 Education, including vocational training and guidance**

#### **1. Primary and secondary education**

350. In the Netherlands, children must attend school between the ages of five and 16. In practice, virtually all children attend primary school from the age of four. Primary education is provided free of charge. Parents may however be asked to pay a small contribution towards school trips and extracurricular activities.

351. Since 1 August 2007 young people between the ages of 16 and 18 who have completed compulsory schooling but do not have any basic qualifications have been obliged to remain in education until they are 18. Under policy on early school-leavers, young people between the ages of 18 and 23 who are no longer in education and have no basic qualifications are encouraged to complete their schooling as far as possible, preferably to a level that gives them a basic qualification.

352. All children in the Netherlands are covered by the Compulsory Education Act and may attend school, irrespective of their status. This therefore also applies to children with missing or incomplete documents (recommendation 62), and to children of asylum seekers and unaccompanied children (recommendation 70). The children of asylum seekers may attend mainstream primary schools. One of the main focuses of education for the children of asylum seekers is of course teaching Dutch. Unaccompanied children may also attend mainstream schools. If there is no school near an asylum seekers’ reception centre, an annex of a primary school can be set up there (recommendation 70).

353. There have been no essential changes to the Dutch system of secondary education since the third report. The secondary education system consists of pre-university education (VWO), senior general secondary education (HAVO), pre-vocational secondary education (VMBO, consisting of junior general secondary education, or MAVO, and pre-vocational education, or VBO). Attainment targets have been set, encompassing the basic knowledge and skills regarded as necessary for people to function properly in society. Schools enjoy a great deal of freedom in determining how they work towards these targets. Parents and

pupils choose their own secondary school, though they usually follow the recommendation of the primary school. However, this recommendation is not binding, and it is the secondary schools that ultimately decided who is admitted. VMBO (MAVO/VBO) provides support for students who have difficulty coping with the curriculum.

354. Like primary education, secondary education is provided free of charge. The government no longer asks parents for a contribution towards the cost of primary and secondary education. Since the 2009/2010 school year the textbooks used in secondary schools have been available at no charge. Secondary schools may also ask parents for a voluntary contribution towards the costs of school trips, for example. This may not, however, have any bearing on whether the child is admitted to the school.

355. Secondary vocational education (MBO) is free up to the age of 18. Parents of MBO students under the age of 18 can also apply for an allowance. MBO students over the age of 18 are obliged to pay a fee. Young people aged 18 and over are eligible for student finance, based on the fees payable and the costs of educational materials such as books.

## **2. Provision of information on education and careers guidance**

### **(a) Early years**

356. In the Netherlands the municipalities are responsible for pre-school education, and schools for early years education. The present government's aim is to ensure that all disadvantaged children, particularly those with a language disadvantage, participate in early years education. At the start of every school year the Ministry of Education, Culture and Science publishes a national online guide to primary education. This helps parents choose and contact a school. Parents are sent a brochure alerting them to the online guide during the school year in which their child turns three. Parents/carers with children at primary and/or secondary school can contact the national information centre with any questions they may have about schools.

### **(b) Secondary education**

357. Careers guidance falls under the Secondary Education Act, and counselling on school and career choice is funded from the secondary education budget. Most secondary schools have open days so that prospective pupils and their parents can get an idea of what the school is like and what kind of teaching is provided. These are usually followed by other information sessions for parents and pupils. The move from primary to secondary school is made easier by a transition class; some schools also have special introductory activities.

358. It is the school's responsibility to inform pupils as to how their choice of subjects will affect their study and career prospects. Everything is geared towards helping pupils make a well-considered, conscious choice. A huge number of tools and examples of good practice are available for schools to use in their counselling activities (incl. a career scan for schools, a careers portal which includes internship prospects, individual assessments, open days at institutions of further and higher education, shadowing days, individual coaches, peer group counselling, short internships and degree choice interviews).

359. Since 2009 the government has been fostering efforts to raise the standard of careers guidance in schools and other institutions. Encouraging students to make well-considered choices reduces the likelihood that they will drop out before completing their degree and prevents the underutilisation of capacities/talents. Both the Secondary Education Council and the Vocational Education Council have made careers guidance a priority and are directing a range of activities in their own sector, in collaboration with various institutes and employers. A careers guidance website and toolkit have now been launched, and

training has been developed for teachers and careers advisors to provide them with the skills they need to conduct individual careers guidance interviews.

**(c) Vocational education**

360. The third Dutch report considered the importance of careers guidance in vocational education. Institutions have a statutory obligation to provide careers guidance for their students. In addition to the information in the third report, we should also mention that a secondary vocational education action plan launched in 2010 announces further measures in this area. It opts for shorter, more intensive vocational education courses, and continued rigorous implementation of the policy on early school leavers. Good intake procedures are putting institutions in a better position to prevent dropout.

361. Nevertheless, a good choice of subject and course, and well-considered choices during the course, are more important than ever. Careers advice and guidance is therefore being given a boost. The Ministry of Education, Culture and Science supports the careers advice and guidance incentive plan drawn up by the Vocational Education Council, COLO (the association of centres of expertise on vocational education, training and the labour market) and Skills Netherlands. The plan includes pilot projects for regional jobs competitions, in which students display their skills to a broad audience. Parents are now being involved more closely in careers advice and guidance, since they play a key role in their children's choice of career.

**3. Safety in schools**

362. A safe school environment is essential if children are to learn properly. Schools are primarily responsible for providing a safe environment. This includes tackling bullying. The government helps schools fulfil their responsibilities in this area. The new measures introduced since 2004 that were mentioned in the third report remain in force. For example, the government is investing in school welfare services and pupil counselling in primary and secondary schools, allowing problems involving pupils to be identified and tackled at an early stage.

363. The Vocational Education Council has a Safety Platform that encourages secondary vocational education institutions to take measures to enhance safety, and publishes a monitor of social safety in the sector every two years, with the support of the Ministry of Education, Culture and Science. Policy on the safety situation in schools vis-à-vis the problems outlined in recommendation 62 does not differ from the standard safety policy in schools.

**4. Functional illiteracy**

364. In recent years the government has invested a great deal in public awareness through its action plan to combat poor literacy (2006-2010). This clearly put the problem higher on the social agenda and partially succeeded in getting rid of the taboo surrounding illiteracy. The increased focus on tackling poor literacy also led to more adults taking classes in language skills – between 10,000 and 12,000 participants a year.

365. Over the next few years the government will be promoting its new action plan to combat poor literacy, covering the period from 2012 to 2015, with an emphasis on quality and efficiency in teaching of language skills. Across the full spectrum of mainstream education there will be an increased focus on language skills and numeracy, using the Frame of Reference for Language and Numeracy as a benchmark. The frame of reference will also be incorporated into the standards for adult education. In addition, €5 million will be earmarked every year for the next three years for pilot projects, which should produce a

new and hopefully more effective approach to tackling poor literacy, making greater use of volunteers.

366. Furthermore, legislation that came into force in 2010 makes municipalities responsible for ensuring comprehensive provision for children aged two-and-a-half to four with a language disadvantage. The budget has been increased, to allow municipalities to actually fulfil this responsibility. The legislation also aims to achieve more cohesion in pre-school provision, and to ensure it prepares children better for primary school.

367. Research has shown that the language skills of students in secondary vocational education are inadequate. Given that “prevention is better than cure”, it was decided in 2008 that €50 million of the adult education budget should be reserved for action on language and maths skills in secondary vocational education.

## **5. Preventing early school leaving**

368. Since the previous report, the Netherlands has made progress on reducing the number of students leaving school early. The goal is to reduce the number of new early leavers from 71,000 (2005/2006 school year) to no more than 35,000 in the 2010/2011 school year. In 2010 the government tightened up this target, with a new goal of no more than 25,000 early school leavers by 2016. The figure for the 2009/2010 school year was 39,600.

369. A number of measures have been put in place to achieve this goal, including:

- Multi-year agreements with municipalities, secondary schools and vocational education colleges in all 39 RMC regions (served by regional offices for the registration of early school leavers). They essentially prescribe a reduction in the annual number of early school leavers by 10%, rising to 40% in 2010/2011. Schools will receive a performance grant of €2,500 for every early school leaver they prevent.
- A grant for educational programmes has been available in each RMC region since 2008. It is up to the region to decide how it is used, based on the figures for early school leaving.
- The agreements and educational programmes stipulate that schools must tackle early school leaving with improvements to special needs provision, careers guidance and the transition from pre-vocational to secondary vocational education. Progress with the agreements and educational programmes is monitored regularly.
- On 1 August 2007, an obligation to obtain a basic qualification was introduced for youngsters aged 16 to 18.
- Comprehensive registration of early school leavers. Launch of an online truancy portal for secondary and vocational education on 1 August 2009; for primary and special schools from 1 August 2010.
- Extra services — a combination of education, guidance and getting people into work — have been put in place for young people who have the cognitive ability to obtain a basic qualification, but are unable to attend school or college due to psychological, social and/or financial problems, or problems with the criminal justice system (known as “overburdened” youngsters).
- More collaboration between school and youth care institutions operating in or outside school, including the introduction of pupil support advisory teams.

## 6. Lisbon objectives

370. The Dutch government is working to help achieve the European Union's Lisbon objectives. One of those objectives was to halve the number of early school leavers between 2000 and 2010. The European Union has since decided to extend this period to 2020. The Netherlands' score in 2000 was 15.4% (EU average in 2000: 19.6% of 18- to 24-year-olds); by 2010 this had fallen by almost 35%, to 10.1%.

## 7. Tackling youth unemployment

371. Since 2004 the Ministry of Health, Welfare and Sport, the Ministry of Education, Culture and Science and the Ministry of Social Affairs and Employment have been implementing an action plan to reduce early school leaving and keep young people in education or work. The Youth Unemployment Task Force and the special programme to tackle early school leaving are part of this action plan. The focus is on improving collaboration between the education sector and the labour market, and creating more places for young people on work-study programmes.

372. At the start of the economic crisis, a joint action plan was drawn up to limit its impact on young people. The plan consists of five lines of action:

- Keeping young people in education longer;
- Voluntary agreements with 30 labour market regions;
- Matching offensive;
- Extra jobs, work-study places, trainee placements and voluntary work for young people;
- Opportunities for vulnerable youngsters.

373. The current government's objective is to reduce the number of early school leavers to 25,000 by 2016. To ensure that all primary and secondary schools and vocational colleges have a pupil support advisory team, schools will be legally obliged to provide for special needs either in or outside the school. The planned review of the youth care system will bring major changes to youth care over the coming years, and should ensure the necessary help and support is provided more quickly and accessibly, particularly in and around the school. The municipalities will be responsible for implementing both youth care and labour market policy, giving them more opportunity to focus on young people.

## 8. Cooperation with developing countries in the field of education

374. Over the past decade, primary education has been one of the main themes of Dutch development policy. The goal was to help achieve MDG 2 and the international Education for All agenda, both of which aim to tackle illiteracy, offer a good standard of education that caters for the needs of the labour market and ensure that by 2015 all boys and girls attend and complete primary school. As a result of budget cuts and a shift in priorities, spending on primary education gradually fell in the 2009-2011 period, from €327 million to €194 million.

375. During the period under review the Netherlands worked with 19 partner countries to build up their education sector and/or invest in vocational education. These efforts took the form of sectoral support, general budget support and silent partnerships (financial contributions to programmes run by other donors). The Netherlands has also been one of the biggest donors to the Education for All Fast Track Initiative. Along with UNICEF, the Netherlands ran a major programme (€166 million 2006-2011) to restore education services in crisis situations. Over the 2011-2013 period €4.7 million is being put into an ILO/IPEC programme to combat child labour by improving education. The Netherlands has also

contributed to efforts to improve educational standards and help remove the educational disadvantage suffered by girls, via UNESCO and a number of regional organisations. Examples of results achieved include:

- Approximately six million children in 38 countries have benefited from the Dutch-funded UNICEF programme for education in crisis, conflict and post-conflict situations. Over 40,000 schools and temporary classrooms have been restored or adapted, and more than 130,000 teachers and other staff have been trained or retrained.
- Money from the Fast Track Initiative fund has been used to support educational reform in 37 developing countries. Over 30,000 classrooms have been built, 337,000 teachers trained and 203 million textbooks distributed. 19 million more children now go to school in FTI partner countries than eight years ago. The Dutch contribution to the fund was €30 million in 2009 and 2010.
- Yemen, a partner country which has the lowest proportion of girls in school, has made major progress in rectifying the situation, even though it still lags seriously behind. Over 65% of girls now attend primary school. To achieve this, specific investments have been made in education for girls, together with FTI. 214 new schools have been built with sanitation facilities, and 1000 trained female teachers have been set to work in rural communities, where the problem is greatest. 350,000 children have received new teaching materials.
- In Cape Verde, Dutch support (€6.3 million, 2009-2010) helped triple the number of students in vocational education to 6,000 in 2010. A start has been made on restructuring the employment centres that match supply and demand on the labour market.

## **Article 29**

### **Aims of education**

#### **1. Primary, secondary and special education**

376. To improve performance in primary education, besides social and emotional development, more emphasis is being placed on yield-oriented approaches to teaching. Schools are being made aware of the fact that, if they work more efficiently and according to a plan, pupils can achieve better results. The focus is on language and maths. The use of national tests is also to be made mandatory, to allow performance to be measured and improvements made.

377. English is a compulsory subject in the primary curriculum. The goal of English teaching is to provide an initial basis for communication with native speakers and others who speak English outside school. English is also a compulsory subject at all secondary schools; in the lower forms of HAVO and VWO, German and French are in principle also compulsory, as second and third foreign languages. Some schools offer students the option of learning Arabic, Turkish, Spanish, Italian, Russian or Chinese.

378. For the rest, the Netherlands' third report is still current. The basic assumptions — that children grow up in a multicultural society and that boys and girls are given equal opportunities — still apply. This has implications for attainment targets in terms of active citizenship, social integration and awareness of other cultures, for example. The situation concerning Frisian and other minority languages also remains unchanged. More details are given in the section on article 30.



## 2. Citizenship, human rights and children's rights education

379. As stated in the previous report, schools' responsibility to contribute to citizenship and social integration became a statutory duty of compulsory education in 2006.

380. Aspects of citizenship, human rights and children's rights are also reflected in the attainment targets for primary and secondary education. For example, secondary education attainment target 47 states that pupils should learn to place current tensions and conflicts in the world in context, and to understand their impact on individuals and society (national, European and international), the high degree of interdependency in the world, the importance of human rights and the significance of international cooperation. Schools must translate these attainment targets into school curricula at all levels (recommendation 62, d). It is left to them to decide how they do so, however.

381. The education inspectorate has noted in its annual reports that, although schools are meeting their responsibility for citizenship education, they could achieve more if they were to put across a more cohesive message concerning citizenship. The Education Council of the Netherlands was therefore asked in 2011 to provide recommendations as to how schools can be given more support in fulfilling this responsibility. Its report will also consider human rights education.

382. A document has been drafted specifying educational targets for vocational education over and above those required for vocational qualifications. Human rights and children's rights are included in citizenship.

## 3. Highly gifted and high-achieving pupils

383. The Ministry of Education, Culture and Science aims to achieve an ambitious learning culture in schools, where the bar is set high and the performance of the best pupils is given particular attention. Pupils with exceptional cognitive abilities are encouraged to enhance their performance. This applies to both highly gifted and high-achieving pupils. In current educational practice, highly gifted pupils appear to have more difficulty identifying with standard teaching materials and methods.

384. An extra challenge over and above regular lessons stimulates highly gifted and high-achieving pupils and students and can lead to better performance. The principle is that all pupils have a right to "tailor-made" education, including those who are highly gifted and high achievers. The sectoral programmes of primary, secondary and higher education include the promotion of excellence and ambition. Attempts are being made to focus more attention on highly gifted and high-achieving pupils and students at all levels of education, and on raising the performance of the top 20% of potential top performers (highly gifted and high-achieving pupils). To achieve these objectives, five lines of action will be pursued over the coming years:

- Specially tailored programmes for highly gifted and high-achieving pupils and students;
- Continuity of learning (better progression from primary to secondary to higher education, through regional collaboration for instance)
- Collaboration;
- Professionalization;
- Image promotion.

385. This government plans to make extra investments in high-achieving pupils, and has reserved funding for the purpose which is set to rise to €30 million for primary and secondary schools.

#### **4. Vocational education**

386. The government sets the attainment targets for each vocational qualification, on the basis of proposals from representatives of the education sector and the private sector. Every secondary vocational programme in the Netherlands is based on threefold qualifications focusing on profession, career and social participation.

#### **5. Freedom of education**

387. There has been no change in the situation in the Netherlands with regard to freedom of education, which is required under article 29 para 2 and guaranteed under article 23 of the Dutch Constitution.

### **Article 31**

#### **Leisure, recreation and cultural activities**

##### **1. Youth work/youth welfare work**

388. Welfare services for children, adolescents and young people, and playgroups, fall under local youth policy and youth welfare policy. Local youth policy aims to ensure that all children and young people have every opportunity to develop, allowing them to grow up in a child-friendly environment and teaching them to take responsibility for themselves and their environment. Municipalities have a responsibility to pursue an integrated youth policy specific to the local situation.

389. A national play outdoors day was held in June 2009, 2010 and 2011, an initiative of TV channel Nickelodeon and the Association of Netherlands Municipalities. The special day was organised in collaboration with the Sport and Municipalities Association (VSG), Scouting Nederland, Jantje Beton, the Child Friendly Cities network and the Dutch road safety association VVN. The aim was to encourage children to play outside and take part in sport.

390. In 2010 the Ministry for Youth and Families and the Ministry of Health, Welfare and Sport commissioned a study of girls and youth work, prompted by the fact that little research has been done on youth work in general, and on how the system works for girls in particular. The study, performed by the Netherlands Youth Institute, was completed in January 2011. The Ministry of Health, Welfare and Sport commissioned two publications to cater for the needs of municipalities (policy officers and councillors with the youth portfolio) and youth work organisations (managers and youth workers), and organised a meeting to discuss girls and youth work.

391. In March 2010 the Netherlands Youth Institute organised a European expert meeting for youth workers entitled “Empowering youth work”, in collaboration with non-profit organisation Stichting JONG Rotterdam. Some 60 youth workers, policy officers, advocates and other stakeholders from several European countries attended. The aim of the meeting was to share knowledge and experience of professionalisation, methodical working and recognition of youth work in a European, national and local context. The discussions were based on the new EU Youth Strategy.

##### **2. Children and young people more involved in sport and cultural activities**

392. The State Secretary for Social Affairs and Employment awarded municipalities €40 million extra in both 2008 and 2009 to help poor families participate in sport, cultural activities etc.

393. There are now fewer children who do not take part in sport, swimming lessons, cultural activities, music, scouting, out-of-school activities and the like. Among all children, the reduction between 2008 and 2010 was 3% (from 518,000 to 504,000). Among poor children, the group of “non-participants” shrank by 6% (141,000 in 2008, 133,000 in 2010). The reduction in numbers was even more pronounced among children from families on social assistance (down 9%, from 66,000 in 2008 to 61,000 in 2010). The age group studied (five- to 17-year-olds) consisted of 2.4 million children in 2010. Thanks to this development, children from families on social assistance have caught up slightly with children in other income groups.

### 3. School hours and leisure

394. Primary school boards determine school hours and how they are distributed among the junior and senior classes, subject to the approval of parents. The minimum number of teaching hours for the entire school is 7,520. There is no limit on the number of hours of teaching per day. Primary schools must however ensure a balanced distribution of activities throughout the day, and ensure that children have enough breaks. Parents can consult the school prospectus to see how this is arranged at their child’s school. Schools are obliged to publish details of school hours and teaching time in the prospectus.

395. Pupils in years 3 to 8 of primary school must attend school five days a week. A four-day week may be scheduled up to seven times a year. This does not include weeks that are already reduced to four days because of public holidays. The four-day weeks must be distributed evenly throughout the year. Children in years 1 and 2 are not obliged to attend school five days a week. On all other matters, please consult the previous report.

396. More and more community schools — encompassing playgroups, childcare and sports clubs, for example — are being set up in the Netherlands. They offer “wraparound care”, with activities before and after school. There are currently some 1,500 community primary schools in the Netherlands (out of a total of approx. 6,500).

397. Secondary schools must provide at least 1,000 hours of teaching each year, and 700 hours in the final examination year. Schools may set their own timetable — the number of hours per day, the duration of lessons etc. — according to their own ideas about education, within certain boundaries. Parents and pupils have a say via parent and student participation. Given the fact that, besides weekends, there are no more than 68 days when no teaching has to be provided in a year (12 weeks of holiday, eight public holidays), an average of around 38.5 weeks are available to provide an annual 1000 hours of teaching. A secondary school pupil therefore has some 26 hours of lessons a week, just over five hours a day on average (excluding breaks, etc.) After teaching time (the proportion of education provided at school, on the school’s responsibility), pupils also have homework. The total study burden (teaching time plus homework) varies. Pupils in the lower forms tend to have less homework than those in higher forms. The standard study burden in the upper forms of HAVO and VWO is estimated to be 40 hours a week on average, including sport and cultural activities that are part of the curriculum. This can vary, however, depending on the type of education the school provides, and the learning style and capacities of pupils.

398. Young people are spending less free time on collective activities in public (on the street and sports field) and more on individual activities in a private setting. Young people also have less leisure time than ten years ago. Secondary school pupils have an average of 40 hours of leisure a week, which they are increasingly spending away from their family. As a result of this trend, young people are also spending less time on voluntary work and sociocultural youth work. To foster young people’s interest in voluntary work, the secondary school curriculum for all pupils includes community service as of 2011. Through non-profit placements, young people learn to relate in a new way to their environment and to make an active contribution to society. Non-profit placements are now an integral part of

the secondary school curriculum. The school itself manages the project and is ultimately responsible. The basic principle underlying non-profit placements is that they should match the needs and interest of the pupil, because this magnifies the learning effect. These points are discussed with the pupil when the placement is arranged.

#### 4. The arts

399. The previous reported indicated that the Ministry of Education, Culture and Science wants to ensure that all school-age children come into contact with the arts through their school. €22.5 million a year was invested in this over the 2008-2010 period.

### VIII. Special protection measures

#### A. Children in emergency situations

##### Articles 22 and 39 Refugees

400. Dutch policy on unaccompanied minor aliens (*alleenstaande minderjarige vreemdelingen, AMVs*) is reviewed and currently implemented. The aim is to inform AMVs more quickly about their prospects in terms of residence or return. In the case of AMVs entering the Netherlands who do not qualify for international protection, every effort is made to affect their return, provided care is available for them locally. It is important to shorten the period of instability and uncertainty regarding their residence prospects. One objective is therefore to speed up the decision-making process on AMV residence applications.

401. What should not happen is that an AMV has lived in the Netherlands for some considerable time without any prospect of permanent residence, particularly in view of the vulnerability of minors who have been displaced from their “ordinary” (i.e. family) and familiar surroundings. The aim is therefore to achieve the most comprehensive strategy possible in policy on AMVs.

402. The residence permit that is currently issued to AMVs who are not eligible for asylum and for whom no adequate care is available in their country of origin will be abolished under the new policy. A more comprehensive not-at-fault policy will be introduced for AMVs who are under 15 years of age upon entering the Netherlands, and who cannot return, through no fault of their own, to a situation in which there is adequate care for them. This will create a safety net for young AMVs. The precise definition of what constitutes “adequate care” will be examined in the course of the review.

403. The basic principle is that AMAs — like adults — should return of their own accord. In practice, enforced return of AMVs is very difficult to achieve. For this reason, efforts focus inter alia on adopting measures to encourage voluntary return, including promoting international cooperation in this area.

404. In the review, AMVs will continue to be treated as a vulnerable group to the same extent as before. Preventing exploitation and abuse will continue to be a priority in the review of policy on AMVs. The safe houses that already exist for AMVs that are — or could become — the victims of traffickers in human beings will be continued. The safe houses will be less “secure” without prejudicing the protection given to these AMVs.

405. The review will also dwell on the definition of the phrase “in the child’s best interests”. It also discusses recent international developments, such as the elaboration of the action plan on unaccompanied minors adopted by the European Commission.

Table 6  
**Unaccompanied aliens under 18 entering the Netherlands**

<i>Year</i>	<i>Total (in round figures)</i>
2001	5,950
2002	3,230
2003	1,220
2004	590
2005	520
2006	410
2007	430
2008	730
2009	1,040
2010	700
2011 to end of July	280

### 1. Adequate care

406. In 2001 the Netherlands launched a reception centre project in Mulemba (Angola) with a European organisation for the care of unaccompanied minors and local NGOs concerned with the protection of minors ([www.mulemba.org](http://www.mulemba.org)). The project provides care in Angola for minor Angolan asylum seekers whose asylum applications in the Netherlands have been unsuccessful. A “children’s village” provides them with care, food, education and health care until they reach the age of majority. Teaching focuses on practical skills that will help them find work when they reach adulthood. To date, all the minors who during their asylum procedure had declared they were orphans have been claimed from the village by their parents. A similar project was launched in the Democratic Republic of the Congo in 2005.

### 2. Examination to establish age

407. In April 2004 the then Minister for Immigration and Integration established an independent committee to oversee examinations to establish the age of asylum seekers in the Netherlands. Such examinations are an important tool for the government in its attempts to better serve the interests of minor asylum seekers. The Netherlands has a special policy on asylum under which a minor is more likely to be granted a residence permit than an adult. Adults without documents sometimes claim they are minors to qualify for this policy. Examinations to establish age are intended to prevent adults from being accommodated in special facilities designed for AMVs, with all the attendant problems. In the opinion of the committee, such examinations are a safe, tolerant and acceptable instrument that excludes the possibility of minors being taken for adults.

## Article 1f Children

408. Family members of an alien to whom article 1f of the Refugee Convention applies do not in principle qualify for a residence permit. The objections pertain not to the acts or characteristics of an individual family member but to an alien who has already been denied a residence permit. In such cases, in the interests of public policy, there is a serious objection to those concerned being granted residence. It is vital to ensure that article 1f of

the Refugee Convention does not lose its practical meaning. Giving residence status to family members would mean that an alien to whom article 1f of the Refugee Convention applies would, in practice, almost certainly be able to stay in the Netherlands for a longer period of time, thanks partly to the rights and facilities which the family members would enjoy on the grounds of their status. In view of the exceptional character of the crimes at issue, the interest of public policy in the Netherlands weighs more heavily in this case.

409. However, the public policy objection is no longer applied to family members of an alien subject to article 1f of the Refugee Convention who have resided continuously in the Netherlands for a considerable period of time. It is irrelevant whether they still have family ties with the alien to whom article 1f applies. In addition, the situation of such family members with regard to their own departure is relevant, namely:

- They must have resided in the Netherlands for at least 10 years following the date of their first asylum application;
- Their residence in the Netherlands has been continuous;
- No attempt has been made to frustrate the departure process.

### **Article 38**

#### **Children in armed conflicts**

410. See the previously submitted report.

## **B. Children and the criminal justice system**

### **Article 40**

#### **Juvenile criminal law**

##### **1. Aims and principles of policy in reporting period**

411. Juvenile justice emphasises education. This is expressed in diverse ways. Besides the existence of specific statutory regulations and the fact that these are applied by special juvenile public prosecutors and children's judges, all the decisions taken about young offenders are geared towards encouraging their development, reforming their behaviour, rehabilitating them, and deterring them from pursuing a life of crime. When concern arises about a young person's upbringing, civil-law measures can also be considered.<sup>16</sup> In dealing with criminal offences committed by children, the aim is to keep them out of criminal proceedings as much as possible, and to seek other solutions while respecting the child's human rights. For instance, the public prosecutor may drop the charges and/or bring in youth care services, or apply an alternative sanction under the HALT system.

412. When the children's judge does decide to impose a custodial sentence on a juvenile, the execution of this sentence is geared as much as possible to preparing the child's return to society (section 2, subsection 2, Young Offenders' Institutions Framework Act). The statutory criteria for imposing the available orders (both behavioural programme orders and orders for placement in a youth protection and custody institution (PIJ maatregel)) all reflect this educational bias.

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<sup>16</sup> This principle is also enshrined in the Public Prosecution Service's policy on prosecution; see the instructions on the effective disposal of juvenile criminal cases (Aanwijzing effectieve afdoening strafzaken jeugdigen) 2011A008, Government Gazette 2011, no. 10941.

## 2. HALT system

413. The possibility of giving young people an alternative sanction — known as the HALT system — has existed in the Netherlands for about 30 years. These sanctions, implemented by HALT offices, are intended for young first offenders aged between 12 and 18 who have committed a minor offence. A young person who is arrested by the police for such an offence can avoid acquiring a criminal record with a referral to a HALT office.

414. The national survey of the effects of HALT carried out in the spring of 2006 (“Halt: Het Alternatief? De effecten van Halt beschreven”) showed that, in a majority of cases, sanctions imposed under the HALT system do not lead to a reduction in the frequency and seriousness of the offences committed by youngsters. Partly for this reason, the Ministry of Security and Justice and HALT Nederland investigated ways of improving the system. This led to sweeping changes to the screening method and alternative sanctions under the HALT system as from 1 January 2010.

415. One change is a closer working relationship with parents. The involvement of parents has a positive impact on the young people’s learning process. Parents’ cooperation in the process is actively enlisted from the outset, after referral by the police. HALT also helps parents develop skills to help prevent their children reoffending in the future. Under the new HALT approach, young offenders are encouraged, more than in the past, to offer apologies and compensate for damage caused. Finally, HALT staff are now more alert to identifying and reporting underlying problems, where these exist. When such problems are identified, HALT will refer those concerned to care services.

416. As from 1 October 2010, amendments to the Designation of HALT Offences Decree entered into effect (Bulletin of Acts and Decrees 2010, 680). This provides a statutory basis for the new HALT approach.

## 3. Tackling youth crime

417. Following on from the youth justice programme 2003-2006 (Jeugd terecht) mentioned in the third report, the government launched a new programme in 2007. This programme is called “Tackling youth crime” and relates to the period 2008-2011. An objective related to this programme is to reduce the proportion of young offenders who reoffend within 7 years from almost 60% to 50% for the period 2002-2010 by employing an approach tailored to the individual child. The results of this programme will become apparent when the recidivism rate is measured in 2017. The programme was divided into projects focusing on five subjects: (1) Early intervention and prevention, (2) An approach tailored to the individual child, (3) Rapid disposal of criminal cases against children, with consistent and foreseeable action, (4) Aftercare, and (5) Reduction of recidivism rate following juvenile community service orders.

## 4. Early intervention and prevention

418. From 2009 the government’s youth and crime policy has emphatically focused on the youngest group of at-risk juveniles: under-12s who have already been in trouble with the police, and children who are at extra risk of getting into trouble. The main pillar of the government’s policy on the under-12 age group is that when young people get into trouble with the criminal justice authorities they are not punished but are passed on to the youth care services. Early detection plays a prime role here.

419. The police and the Youth Care Office have made agreements in line with these policy principles about the handling of cases involving children under 12, effective from 1 January 2010. Under these arrangements, parents will be asked to come to the police station to discuss the criminal offence their child has committed. A “care form” will then be filled in, referring the child to the Youth Care Office. On the basis of this information (and

possibly other available information) the Youth Care Office will decide what input from the social services is appropriate.

420. In 2007 the Gelderland Midden police force developed and deployed ProKid, a screening instrument that pinpoints children under 12 who have been in trouble with the police for some reason or other. The system matches offending behaviour with information about other risk factors in the child's immediate environment, such as domestic violence, drug use and other members of the household who have been in trouble with the law. Special parental support has been developed for the parents of very young children who get into trouble with the police.

## **5. An approach tailored to the individual child**

421. An approach tailored to the individual child must be based on a specific, appropriate diagnosis. To decide what programme is needed to achieve a change in the young person's behaviour, it is essential to start by diagnosing the risk of reoffending, any deficiencies that are conducive to crime, and the young person's responsiveness. The aim is to create a better, cohesive set of diagnostic tools for the juvenile criminal justice system and to make effective behavioural change programmes available. These were developed, approved and implemented in 2011.

## **6. Accredited Offending Behaviour Programmes**

422. In August 2005 the Offending Behaviour Programmes Accreditation Committee was set up. It assesses all the offending behaviour programmes that are made available within the framework of the justice system, to see whether they help, or may help, to reduce or prevent repeat offending. A specially targeted — provisional — range of offending behaviour programmes (approximately 20 to 25) is being phased in, attuned to factors in young offenders that are conducive to crime. As from mid-2011, 16 behaviour programmes have been accredited, while another three have received provisional accreditation.

423. In mid-2008, young offenders' institutions embarked on the nationwide implementation of accredited offending behaviour programmes, and the Child Protection Board introduced them at the beginning of 2009. By now, over three-quarters of the long-term inmates of young offenders' institutions have been offered one of these programmes; the Child Protection Board has started implementing them.

## **7. Behavioural programme order**

424. The Act of Parliament of 20 December 2007 (Bulletin of Acts and Decrees 2007, 575), which entered into force on 1 February 2008 (Bulletin of Acts and Decrees 2008, 24), introduced the behavioural programme order (GBM), giving courts a sound instrument to include an emphatic concern for the child's care needs when dealing with transgressive behaviour. The conditions for imposing a GBM state clearly that it must help to influence the young person's development in as favourable a direction as possible. The measure is geared towards reforming behaviour, without any deprivation of liberty.

425. Confinement to a young offenders' institution or an institution for closed youth care is not possible within the framework of a GBM. Rather, the child takes part in a programme that may consist of behavioural interventions, addiction care, needs-assessed youth care, and juvenile psychiatric care. The GBM target group has been defined widely: it includes frequent offenders, but a GBM may also be applied to a first offender who has committed a serious offence. A GBM lasts a minimum of six and a maximum of twelve months. It can be extended by the same period of time. The court seeks an advisory opinion from the Child Protection Board. This advisory opinion must be supported by at least one behavioural expert.



## 8. The project “A fast and consistent youth system”

426. The Dutch government considers the rapid disposal of a criminal case against a child, with decisions being made without delay, to be in the child’s best interests. To prevent reoffending, it is also important for the sanction to be imposed as soon as possible after the offence. Fast and consistent punishment will impress upon the child the connection between the criminal offence and the ensuing sanction. The objective is that 80% of cases must be disposed of within the time set as the norm: (1) if a sanction is imposed under the HALT system, the norm is that the activities prescribed start within 60 days; (2) in the case of a young person whose case is dealt with by the public prosecution service, the norm is that the case is disposed of within three months; (3) where a case goes to court, the norm is that judgment is given within six months. Best practices have been exchanged, and the existing procedures reviewed in a comparative light.

427. In the third report on the CRC, it was emphasised that case consultation (justitieel casuoverleg; JCO) raises the quality of case disposal and coordination. Since then, the people involved in and the procedures of these consultations have been standardised, and since 2007 those involved have had the support of a national JCO information system. With the further development of community safety partnerships, which have now been set up in 43 municipalities, steps have been taken in the direction of a Generic Case Support System. The aim of this system is to give firm support to the different consultative bodies connecting the diverse partners involved in the community safety partnership, to help them in their approach to persistent offenders, domestic violence, youth aftercare, and case consultation.

428. Suspended youth sanctions are frequently imposed in a bid to change a child’s behaviour and to help him or her accept a constructive role in society. In such cases, the penalty or non-punitive order is suspended either wholly or partly. The conditions that may be imposed on the young person’s behaviour in such cases are laid down in statutory provisions, to assure maximum legal certainty.<sup>17</sup> When a suspended youth sanction has been imposed, the young person concerned is supervised by the youth probation service.

## 9. Appropriate aftercare

429. To prevent reoffending, it is crucial to ensure that good supervision is provided after the custodial stage. In 2007 a Youth Aftercare Responsibility Framework was adopted. To give these young people appropriate help, a nationwide system of network and roadmap meetings was introduced in 2009. At these meetings, young offenders’ institutions, the Child Protection Board, Youth Care Offices, Youth Probation Services and municipal authorities make joint decisions on the child’s supervision. They discuss the young person’s situation and draw up an aftercare plan.

430. A young person who has been placed in a young offenders’ institution will be discussed at a network meeting, which takes place at the young offenders’ institution concerned, within one week. All the information concerning the young person is collected at this meeting. An estimate is made of the time he is likely to be kept in the institution, and clear procedural agreements are made about who will do what when it comes to aftercare. Within two weeks of the network meeting, the first roadmap meeting takes place in the region where the young person lives, and is attended by a representative of the local authority. At the roadmap meeting, agreements are made about the aftercare and supervision of the young person following his release. It frequently happens that the young

<sup>17</sup> Behavioural Change Programmes (Young People) Decree (*Besluit gedragsbeïnvloeding jeugdigen*), Bulletin of Acts and Decrees 2008, 23.

person has already been released by the time this meeting takes place. The network and roadmap meetings have now been placed on a statutory basis.

**10. Statutory basis for compulsory aftercare following custodial sanctions**

431. Placement in a youth protection and custody institution or youth detention is followed by a period of compulsory aftercare.<sup>18</sup> In the case of someone who still has three months or more to serve in youth detention, the mandatory aftercare takes the form of a training and education programme (STP), to be provided by the probation service or youth probation service. For those who have less than three months left to serve in youth detention, the aftercare takes the form of specific conditions attached to a suspended (or partly suspended) sentence. Agreements have been made with the Public Prosecution Service to ensure that in appropriate cases, alongside an application for a non-suspended juvenile custodial sentence, the public prosecutor will also require for a suspended sentence or a suspended (or partly suspended) youth sanction. The new Act provides for a system of conditional lifting of orders for placement in a youth protection and custody institution. In all cases, the order is lifted conditionally, one year before the maximum duration of the order. During the period when the order has been lifted, the juvenile is required to adhere to a number of set conditions.

**11. Project to tackle repeat offending in juveniles following community service orders**

432. The community service order is an example of a sanction devised inter alia to encourage the young person's development. In the reporting period, over half of the sanctions imposed on young people consisted of community service orders. This is a sanction without any deprivation of liberty, in accordance with the basic principle that deprivation of liberty should be a last resort. At the beginning of 2010, a new project was launched to tackle repeat offending in juveniles following community service orders (ARWJ). One of the objectives pursued in this project is to improve community service orders for juveniles.

**12. Fair trial: juveniles' right to legal assistance during police questioning**

433. Following judgments handed down by the European Court of Human Rights (e.g. the *Salduz* judgment, 27 November 2008), the Supreme Court of the Netherlands ruled in 2009 (Supreme Court, 30 June 2009, LJN BH3079, BH3081 and BH3084) on the implications of this case law for the entitlement to legal assistance in Dutch criminal proceedings, especially in relation to police questioning.

434. The Supreme Court ruled that suspects' entitlement to legal assistance means that they must be given an opportunity to consult a lawyer before being questioned by the police about their involvement in a criminal offence. For juveniles in particular, the Supreme Court takes the view that during police questioning too, suspects have the right to be assisted by legal counsel or another confidential adviser. If a suspect is denied this entitlement to legal assistance, this is in principle a breach of procedural rules within the meaning of article 359a of the Code of Criminal Procedure. The Supreme Court holds that such a breach means in principle that any statements made by the suspect to the police, as well as any evidence obtained as a direct consequence of such statements, should be excluded as evidence.

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<sup>18</sup> The Act of 13 December 2010 amending the Young Offenders' Institutions Framework Act, the Criminal Code, the Code of Criminal Procedure and certain other legislation in relation to modifications in the enforcement of custodial penalties for juveniles (Bulletin of Acts and Decrees 2011, 296). This Act entered into force on 1 July 2011.

435. On 1 April 2010 the Instructions on legal assistance during police questioning, issued by the Board of Procurators General, entered into effect. These instructions lay down the rules for observing a suspect's right to consult legal counsel prior to being questioned regarding the offence ("consultation assistance"). The right to consultation assistance applies to all suspects, regardless of age. The instructions also lay down rules for observing the right of a minor to have the assistance of counsel during police questioning ("assistance during questioning"). The Supreme Court has ruled that juvenile suspects also have the right to be assisted by legal counsel or another confidential adviser during police questioning (Supreme Court, 30 June 2009, Government Gazette 2010, no. 4003).

436. The implementation of these instructions is to be monitored with the aid of an evaluation. In addition, a bill on legal assistance and police questioning is currently being prepared. This too translates the case law referred to above into practical rules.

### 13. The Netherlands' reservation to article 40

437. The Netherlands' reservation<sup>19</sup> to article 40 of the CRC means that courts can try cases involving minor offences without legal counsel being present. It also means that for these minor offences, it will still not always be possible to re-examine the facts and any non-punitive order imposed as a result.

438. The Dutch government remains of the opinion that a court must be able to deal with non-serious offences without legal assistance for the suspect. This would be the case with minor misdemeanours such as disturbance of the peace, conduct conducive to a breach of the peace, cycling without lights and the like. Where minor misdemeanours of this kind are involved, the suspect will not automatically be provided with legal counsel. In spite of this reservation, however, the child can always ask to have legal counsel assigned, and the court may decide to assign counsel. The recent case law of the European Court of Human Rights and the Supreme Court relates to legal assistance to juveniles before and during police questioning (see above). In response to this case law, a large proportion of juveniles now receive legal assistance (recommendations 11 and 78).

### 14. Appeal proceedings

439. Article 40 CRC guarantees the right of a juvenile to appeal to an authority that meets the same standards and requirements as the one that dealt with the case at first instance. The general comments on this article state specifically that this right of appeal is not confined to more serious offences. The Netherlands' reservation to article 40 CRC means that it is not possible to appeal against a conviction for a very minor misdemeanour.

440. Article 404, paragraph 2 of the Code of Criminal Procedure states that appeal is excluded in the case of misdemeanours for which the court has imposed a penalty or non-punitive order not exceeding a €50 fine.<sup>20</sup> The restriction consists of a combination of the nature of the criminal offence and the level of the maximum sanction that can be imposed. Someone who has been convicted of an indictable offence always (of course) has the right to appeal. It is only in the case of a conviction for a minor misdemeanour that the right of appeal has been restricted. These are very trivial cases. The Dutch government takes the view that it is undesirable to build in the possibility of appeal in cases of this kind. To do so could lead to unnecessary delays and place an unnecessary burden on the system, and could lead to an unnecessary juridification of simple disputes.

<sup>19</sup> Parliamentary Papers, Senate, 1993/94, 22 855 (R 1451), no. 408.

<sup>20</sup> In the case of cumulative charges in which the court has imposed several fines, these fines must be added up; in such cases, the maximum sum of €50 refers to the total.

## **Article 37 b–d**

### **Children deprived of their liberty**

441. In the Youth Care Plus system, restrictions can be imposed. For instance, someone's freedom of movement can be restricted, by locking doors in an institution or putting up a fence around it. This is necessary to prevent the young people concerned from refusing the care they need or from being denied that care by others. Confinement as such has to be functional and hence is not an objective of closed youth care.

442. The objectives and principles of the criminal sanctions policy in relation to juveniles were discussed in section VIII.B.i of this report. The following paragraphs discuss the Committee's recommendations in 2009 in relation to the use of pre-trial detention and the possibility of trying minors of 16 or 17 years of age under adult criminal law.

#### **1. Deprivation of liberty the last resort**

##### **Trends in the use of pre-trial detention**

443. The Committee expressed its concern to the Dutch government about the increasing use of pre-trial detention for young people in the Netherlands and recommended putting safeguards in place to ensure that juvenile offenders are deprived of their liberty only as a last resort, and then for as brief a period as possible. As explained in section VIII.B.i of this report, the Dutch government proceeds on the assumption that deprivation of liberty is only used as a last resort and then only for the shortest possible period of time.

444. Especially where pre-trial detention is concerned, the court ordering it has a statutory responsibility to investigate whether the detention can be suspended, under specified conditions (article 493 of the Code of Criminal Procedure). To provide courts with the maximum clarity regarding the conditions that can be attached to a suspension of this kind, the Behavioural Change Programmes (Young People) Decree was also adopted in the reporting period:<sup>21</sup> a statutory regulation defining more explicitly the conditions that can be set when suspending pre-trial detention. This also makes it clear to those working in the field the conditions that are appropriate within the limits that the presumption of innocence imposes on intervention under the criminal law, pending a judgment by the trial court. In this connection, the conditions have been made dependent on the suspect's explicit consent. The formulation of these conditions enhances legal certainty.

445. Figures from the Custodial Institutions Agency reveal that the use of pre-trial detention actually declined in the reporting period: in 2010, 1,888 juveniles were remanded to young offenders' institutions on pre-trial detention, as opposed to 2,614 in 2006.

#### **2. Alternatives to deprivation of liberty**

446. That deprivation of liberty is seen as a last resort was also reflected, in the reporting period, in the disposal policy of the Public Prosecution Service in juvenile criminal cases. Its basic principle is that non-residential disposal is preferable to detention: "alternative sanctions if at all possible". Accordingly, over half of the sanctions imposed on juveniles are alternative sanctions.<sup>22</sup>

447. The principle that deprivation of liberty is the last resort is also expressed powerfully in the introduction of the behavioural programme order (GBM) by Act of 20 December

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<sup>21</sup> Decree of 22 January 2008, exploring the options for changing the behaviour of young offenders (Behavioural Change Programmes (Young People) Decree).

<sup>22</sup> "Criminaliteit en rechtshandhaving 2009", WODC, p. 483.

2007 (Bulletin of Acts and Decrees 2007, 575).<sup>23</sup> The order is discussed at greater length in section VIII.B.i. Its aim is to reform the young person, and there is no deprivation of liberty. A GBM cannot involve remanding the juvenile concerned to a young offenders' institution or a closed youth care institution.

448. Where the courts are concerned, too, the figures show that children's judges frequently decide to impose a partly suspended sentence, even when the juvenile concerned has committed an extremely serious criminal offence.<sup>24</sup>

### **3. Trends in the population of young offenders' institutions**

449. Recent years have witnessed a fall in the number of juveniles sent to young offenders' institutions. This can be explained by a variety of factors. First, in 2008 juveniles subject to a civil-law order started being assigned to the new closed youth care institutions (since 2010 onwards this has applied to all such juveniles). Second, in recent years the influx into young offenders' institutions of juveniles sentenced under criminal law has also fallen steadily. Partly because of a decline in the number of serious criminal offences, the number of cases of youth detention and of court orders for placement in a youth protection and custody institution have also fallen.

450. These trends have led to a sharp decline in the total capacity of young offenders' institutions. Many premises have been transferred to the Ministry of Health, Welfare & Sport (VWS) for closed youth care (which has been used since 1 January 2010, as already noted, for all juveniles sent to closed accommodation pursuant to a court order under civil law). The fall in numbers detained under criminal law has also led to some young offenders' institutions being closed. In the vast majority of cases, juveniles are remanded in pre-trial detention and are then forced to undergo supervision and guidance in the community after their case has been suspended or final judgment has been passed.<sup>25</sup>

### **4. Drive to improve quality in young offender institutions**

451. Besides amendments to legislation (see nos. 122 et seq.), the report on safety in young offenders' institutions (*Veiligheid in justitiële jeugdinrichtingen: opdracht met risico's*), published in September 2007, also led to a policy-based drive to improve quality. The recommendations made in the report have generated a comprehensive package of improvements to boost the quality of young offenders' institutions. The following paragraphs list the measures adopted in the period 2007-2010 and the results achieved.

### **5. Introduction of the basic methodology YOUTURN and accredited offending behaviour programmes**

452. The basic methodology YOUTURN gives group leaders clear guidelines for dealing with juveniles. YOUTURN distinguishes several phases of the juvenile's stay in the institution. For each phase, it details the customised treatment programme to be offered, the tools to be used, and ways of involving the parents. The combination of learning social competences and gaining more insight into cognitive distortions produces a more integrated approach. At the end of 2008 a start was made on implementing YOUTURN throughout the system, and since 2010 all young offenders' institutions have been using it.

<sup>23</sup> Entered into effect as from 1 February 2008 (Bulletin of Acts and Decrees 2008, 24).

<sup>24</sup> Parliamentary Papers II 2008/09, 28 741, no. 16.

<sup>25</sup> In 2005, 3,172 juveniles were remanded in pre-trial detention. Three-quarters of them went home after an average stay of 36 days. Out of this total number of 3,172, 38 were placed in youth detention and 64 in a youth protection and custody institution.

453. If it is clear that someone is going to be spending an extended period of time in a young offenders' institution (generally more than about three months) he or she is offered an accredited offending behaviour programme based on individual behavioural needs. After all, such programmes are only effective if they can be completed.

454. Most of them last at least four months. Since 2006, some 400 coaches have learned how to work with these programmes, and more continue to be trained. Parental participation is key to the basic methodology, and parents are even more involved in the approach to their child at the young offenders' institution than they were in the past. The underlying rationale is to ensure that the young person returns to a more stable home environment and is less likely to revert to old patterns of behaviour. A sectoral approach to parental participation has been developed, which was concluded in May 2011. Young offenders' institutions use a wide range of activities to encourage parental involvement, such as family-oriented accredited behaviour programmes. Parents are always invited to come and discuss their child's future, and the institutions also involve them in filling in applications for leave and for participation in training and education programmes.

## **6. Screening and psychiatric care**

455. Improvements were made in the reporting period in diagnosing behavioural problems linked to or arising from psychiatric disorders. Since September 2008, all young people diagnosed with a psychiatric disorder are discussed in the psycho-medical committee,<sup>26</sup> which meets at least once every two weeks. Group leaders are trained to identify psychological disorders by following a course in psychopathology that is taught by the institution's own child and adolescent psychiatrist or by local branches of the regular Mental Health Care Services (GGZ). One innovation that has improved the quality of psychiatric care is the use of screening tools, which provide clarity about the young person's psychiatric state within 24 hours of his or her admission to the young offenders' institution.

456. In addition, a national strategy on basic psychiatric care was prepared in 2009. This document was produced after expert meetings involving organisations including Youth Mental Health Care Services, young offenders' institutions, the Netherlands Institute of Forensic Psychiatry and Psychology (NIFP), the Health Care Inspectorate, and the coordinating agency for mental health services (GGZ Nederland). The strategy charts all the stages from screening at admission to aftercare following the juvenile's release. Attainment targets are set for each stage. All young offenders' institutions have implemented this strategy and translated it into policy tailored to the specific institution.

457. Other investments designed to improve the quality of psychiatric care include hiring more psychiatrists, psychologists attached to the mental health services, and socio-psychiatric nurses. Extra resources have been made available on a permanent basis to hire these new members of staff. In addition, all young offenders' institutions have partnerships with local mental health care providers offering psychiatric care and on-call services for psychiatrists. In 2010, the sector as a whole had at its disposal 7.75 fulltime equivalent (FTE) child and adolescent psychiatrists, 5.6 FTE socio-psychiatric nurses, and 48.6 FTE mental health care psychologists (with an additional 25 mental health care psychologists still undergoing training), as opposed to 6.3 FTE child and adolescent psychiatrists and 3 FTE socio-psychiatric nurses in 2007.

458. ForCa: To improve forensic diagnostics for juveniles who may be subject to a court order for placement in a youth protection and custody institution, or who are already being

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<sup>26</sup> These meetings are attended by the treatment coordinator(s), the nurse, and a psychiatrist.

detained in a young offenders' institution following such an order, the Forensic Consortium for Adolescents (ForCa) was set up at the end of 2007. ForCa is a partnership between mental health care services, academic institutions, the Netherlands Institute of Forensic Psychiatry and Psychology and young offenders' institutions. The advent of ForCa makes it possible to use multidisciplinary observation (in a specially designed observation unit) to gain a better picture of complex behavioural problems and to make clear recommendations for a targeted approach.

459. Staff: In 2007 it was decided to improve the climate in institutions by greatly increasing the number of staff with qualifications at the level of higher professional education. The institutions are striving to achieve a situation in which 75% of group workers have a qualification at this level. In 2010, 32% of group workers had a higher professional education qualification, as opposed to 26% in 2008. In 2011 more than 350 additional staff are due to graduate. What is more, the young offenders' institutions have set up partnerships with colleges in their area, to ensure that courses are better matched to the practicalities of the work involved.

460. Smaller groups: Since January 2010, the groups in young offenders' institutions have been reduced in size to a maximum of 10 young people in "care groups" and 8 in "treatment groups", while the maximum used to be 12. This reduction in group size anticipated the changes in the amended Young Offenders Institutions Framework Act (entered into force on 1 July 2011), which abolished the distinction between care and treatment wings. All new admissions start off in a short-stay group (with a maximum of 10 juveniles) and after three months, those who are to be detained for longer are transferred to a long-stay group (with a maximum group size of 8), regardless of the section of the law under which they have been deprived of their liberty. Smaller group sizes make it possible to attune education and treatment more successfully to the juvenile's individual needs. This change means that there is now one group leader for every 4 to 5 juveniles.

## **7. Regulations for the use of mechanical restraints on juveniles and the Forensic Observation and Counselling Unit (FOBA)**

461. The Use of Mechanical Restraints (Juveniles) Order applies to young offenders' institutions. This lists the mechanical restraints that are allowed in institutions for juveniles, such as handcuffs, protective helmets and straitjackets (see article 1 of the Order). Article 3 explicitly defines the criteria of necessity and proportionality, as well as respect for human dignity.<sup>27</sup> This means that the basic principle is that mechanical restraints are used only as a last resort, and then as briefly as possible. The Order also imposes certain requirements on mechanical restraints and their use. The director of the institution must draw up a protocol prescribing, for instance, the ways in which mechanical restraints should be applied, and which member of staff is responsible for the supervision and care of the juvenile who has been restrained. Whenever mechanical restraints have been used, a report is drawn up. The protocol also contains details of the staff's periodic training in the use of mechanical restraints.

462. Under the terms of the Young Offenders' Institutions Framework Act, a juvenile over 16 years of age can be placed in isolation for a maximum of four days. Mechanical restraints can be used only on a detainee who is over 16 years of age and who is being held in isolation, and for a maximum period of 24 consecutive hours. In such cases the supervisory committee is immediately notified; this committee acts as an important control mechanism, both in legal terms and by virtue of its supervisory role.

<sup>27</sup> Mechanical restraints are used in accordance with the principles of due care. This means that any such use must meet the set criteria of minimum coercion, proportionality, and efficiency.

463. In practice, juveniles who pose a serious threat to themselves or others are placed in the Forensic Observation and Counselling Unit (FOBA) of De Hartelborgt young offenders' institution. Mechanical restraints are used only occasionally and for brief periods of time at De Hartelborgt. There is always supervision by members of staff. De Hartelborgt avoids mechanical restraints on principle, and seeks to solve the problems that arise in different ways. The use of restraint beds has been discontinued since 1 January 2010 and these beds are literally locked away at De Hartelborgt young offenders' institution. Partly because of the improvements that have been introduced (e.g. smaller group sizes and staff training in the early detection of psychiatric problems), the number of juveniles detained at the FOBA has fallen.

464. In 2006 and 2007 an average of 22 juveniles were detained at the FOBA. In 2008 one of the two FOBAs was transferred to the Ministry for Youth and Families (now the Ministry of Health, Welfare & Sport) and an average of ten juveniles were still being detained at the FOBA. In 2009 the average number was nine, and this number declined further from 2010 onwards, to a little over seven in 2010 and six in the first half of 2011.<sup>28</sup>

## 8. Capacity development

465. The capacity of young offenders' institutions has fallen sharply in recent years. The following table shows the demand from the criminal justice system from 2004 to 2009.

Table 7

### **Demand from the criminal justice system for places in young offenders' institutions as known to the Custodial Institutions Agency, 2004 to 2009**

	2004	2005	2006	2007	2008	2009
Care	858	904	777	686	479	454
Treatment	488	541	601	585	564	457
<b>Total</b>	<b>1,346</b>	<b>1,445</b>	<b>1,378</b>	<b>1,271</b>	<b>1,043</b>	<b>911</b>

466. The above table includes capacity that is available for juveniles detained under either civil or criminal law. For policy developments relating to juveniles detained under civil law, reference may be made to article 18, paragraph 2).

## 9. Application of adult criminal law to juveniles (recommendations 11 and 78)

467. The Committee has repeated its concern that it is still possible to try juveniles of 16 or 17 years of age under adult criminal law. The Netherlands has entered a reservation to article 37 (c) of the CRC on this point.

468. The Dutch government wishes to stress that all cases involving juveniles are tried in the Netherlands by a children's judge. Such trials are governed by special procedural rules geared towards children, which are laid down in a separate title of the Code of Criminal Procedure. These rules also apply to the cases cited by the Committee, involving trials of juveniles who were 16 or 17 years old when the offence was committed.

469. In these cases, the children's judge in the Netherlands has the option of imposing a penalty or non-punitive order from adult criminal law (article 77b Criminal Code). This may be because of the particular seriousness of the criminal offence, the perpetrator's character, or the circumstances in which the offence was committed. One consequence of

<sup>28</sup> Source: Custodial Institutions Agency.



this is that according to the system set up under the law, the penalty or non-punitive order will in principle be enforced in an adult facility.

470. The Dutch government is of the opinion that by retaining the possibility of trying juveniles, in exceptional cases, under ordinary criminal law, it is better able to comply with the requirements of the CRC. After all, building in the fall-back option of relying on the ordinary criminal law makes it unnecessary to increase juvenile sanctions disproportionately in order to have sufficient scope to be able to punish appropriately juveniles who have committed very serious offences. This would mean all children tried under juvenile law being potentially confronted with far heavier punishment.

471. It may be noted that children's judges in the Netherlands are very disinclined to impose an adult penalty or non-punitive order. In the years 2006, 2007 and 2008, 108, 103 and 104 juveniles, respectively, were sentenced to such a penalty or order. These figures represent 1.4%, 1.3% and 1.2% of the total number of convicted minors. It may also be noted that virtually all the juveniles concerned had reached the age of majority by the time the sentence was enforced. In this connection, it was recently laid down by law that when a children's judge imposes a hospital order under adult criminal law on a minor, it will be enforced in a young offenders' institution,<sup>29</sup> rather than in any adult facility, until the person concerned reaches the age of 21. This provision was introduced in response to the Committee's recommendations on this point.

472. It may further be noted in this context that, by Act of 20 December 2007 (Bulletin of Acts and Decrees 2007, 575), the possibility of sentencing a minor to life imprisonment was explicitly prohibited. This complies with the Committee's recommendations in this connection.

473. Since, as explained above, the imposition of a penalty from adult criminal law by a children's judge could possibly result in enforcement at an adult institution, the Netherlands entered a reservation to article 37 (c) on becoming party to the CRC. This reservation means that the Netherlands accepts the provision, but that it is nonetheless possible that adult criminal law may be applied to minors aged 16 or older, if certain statutory criteria are met.

474. The Dutch government has given further consideration to this reservation in response to the Committee's recommendations. It concluded that although the possibility of imposing a penalty or non-punitive measure from adult criminal law on a juvenile in exceptional cases is seldom used, it wishes to retain this possibility. This position is articulated in the letter from the State Secretary for Security and Justice to the House of Representatives, regarding the development of a separate form of criminal law for adolescents from 16 to 23 years of age (Parliamentary Papers House of Representatives 2010/11, 28 741, no. 17).

475. This adolescent criminal law seeks to make it possible, in imposing a penalty or non-punitive measure, to adopt a more individualised approach, taking account of the juvenile or young adult's stage of development. It will include the possibility of imposing penalties and non-punitive orders from the educationally-oriented juvenile criminal law on young adults under 23 years of age. At present, this possibility exists under Dutch law for young adults under 21 (article 77c of the Criminal Code). With the introduction of this system, children will continue to be tried by children's judges. The letter explains that the Government sees the possibility of imposing an adult penalty or non-punitive order on a

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<sup>29</sup> By Act of 13 December 2010 (Bulletin of Acts and Decrees 2010, 818), which entered into effect on 1 July 2011 (Bulletin of Acts and Decrees 2011, 296).

minor who is over 16 years of age as an important means of preventing the mild juvenile criminal law from being made disproportionately harsher across the board.

## 10. Aliens law framework

476. Since January 2008, the Dutch government has, in response to recommendation 68, pursued the policy that families with minor children can in general only be placed in detention if their departure from the country can be achieved within fourteen days at the most. If it is necessary to maintain surveillance of a family with minor children for a longer period of time with a view to their enforced departure from the country, they can be placed in restrictive accommodation (with an obligation to report to the authorities every day) instead of being deprived of their liberty. In addition, in the case of a family with two parents, it remains possible to place one of the parents in detention.

477. In addition, a policy was introduced in March 2011 that sharply restricts the scope for placing unaccompanied minor aliens in aliens detention. They can only be placed in detention if one or more of the following conditions applies:

- The person concerned is suspected of, or has been convicted of, an indictable offence;
- The person's departure from the country can be achieved within fourteen days;
- The person concerned previously left the reception centre for an unknown destination or failed to comply with a reporting obligation or a measure restricting his/her liberty;
- The person was refused entry at the external frontier, and it has not yet been established that he or she is a minor.

478. If unaccompanied minor aliens are placed in detention, they will in principle be assigned to a young offenders' institution, where the supervision and activities are geared towards juveniles.

## Article 39 Special care for victims of crime

### 1. Victim support

479. Victim Support (*Slachtofferhulp Nederland*) helps people — including young people — who have been the victim of a crime or traffic accident, giving practical and legal advice and emotional support. Staff inform victims about criminal proceedings and can counsel them as proceedings go along. If necessary, they will refer victims to other experts for help. In recent years, Victim Support has radically improved its services for child victims of crime. The organisation's voluntary and paid staff have been trained to improve their skills in providing support for young people who have been the victim of a crime.

480. Internet communication channels are used to give further support to young victims. Juveniles have the opportunity of sending e-mails to Victim Support through the organisation's youth website: [www.ikzitindeshit.nl](http://www.ikzitindeshit.nl). In March 2010 a chat function was added to this site, since teenagers are familiar with this mode of communication and it appeals to them. Chatting is an accessible and approachable medium that enables them to ask for help without much fuss.

## 2. Victim impact statements

481. Since 1 January 2005, victims of serious crimes and surviving relatives have the right to make a statement in court on the impact the crime has had on them. The statement may also be submitted in writing. Children aged twelve and over also have the right to make a victim impact statement, as do children under twelve who are regarded as capable of making a reasonable assessment of their own interests. The legislation expanding the right to make a statement in court entered into effect on 1 September 2012. The act gives parents or guardians of victims under 18 who cannot speak for themselves the right to speak. They are given the opportunity to talk about the impact the crime has had on them.

## 3. Victim-offender meetings

482. The possibility of setting up victim-offender meetings, including for juveniles, has existed since 2007. The independent organisation *Slachtoffer in Beeld* is responsible for organising them. These meetings are structured in accordance with a fixed methodology. Victim-offender meetings can help victims come to terms with what has happened to them. A successful meeting can also have a positive impact on offenders' behaviour, and help prevent them from committing further crimes. Such meetings have also been shown to have a positive educational effect on young offenders, producing a compelling realisation of the consequences of their behaviour. Victim-offender meetings are supplemental to the criminal law and hence to the disposal of the case under the law. They always take place on a voluntary basis, in other words only with the victim's and the offender's consent. If the criminal proceedings have yet to take place, a report of the meeting can be sent to the public prosecutor for his information, so that he can take it into account in his closing remarks. With the introduction of these meetings, the Netherlands is complying with the EU Framework Decision on the Standing of Victims,<sup>30</sup> which obliges member states to seek to promote mediation between victims and offenders.

## 4. HALT and young offenders' institutions

483. The disposal of cases under the HALT system and the approach adopted in young offenders' institutions also contain elements of restorative justice. Where the former is concerned, this includes offering apologies to the victim and paying for the damage caused. In young offenders' institutions, juveniles are confronted with the consequences of their actions for the victim.

## 5. Entry into force of the Act strengthening the position of victims in criminal proceedings on 1 January 2011

484. On 1 January 2011 the Act amending the Code of Criminal Procedure, the Criminal Code and the Criminal Injuries Compensation Fund Act to strengthen the position of victims in criminal proceedings entered into effect<sup>31</sup>. This means that victims' rights are now laid down in a separate part of the Code of Criminal Procedure. They include the right to correct treatment, the right to be informed about the progress of the case from the time a victim has lodged a criminal complaint until the offender's release, the right to recovery of damage or loss and the right to request the public prosecutor for inspection of the case file and adding documents to the case file. During the hearing, victims may be represented by a legal counsel and may bring an interpreter. These rights apply to all victims, including minors. This Act also makes it mandatory for parents to attend the criminal trial of their

<sup>30</sup> Framework Decision of the Council, 15 March 2001 (2001/220/JHA).

<sup>31</sup> Bulletin of Acts and Decrees 2010, 291; Bulletin of Acts and Decrees 2010, 792.

minor child. Finally, it provides the opportunity for victims to claim compensation from parents in case the damage or loss is caused by their children under fourteen years of age.

**C. Children in exploitative situations**

**Article 32  
Economic exploitation of children, including child labour**

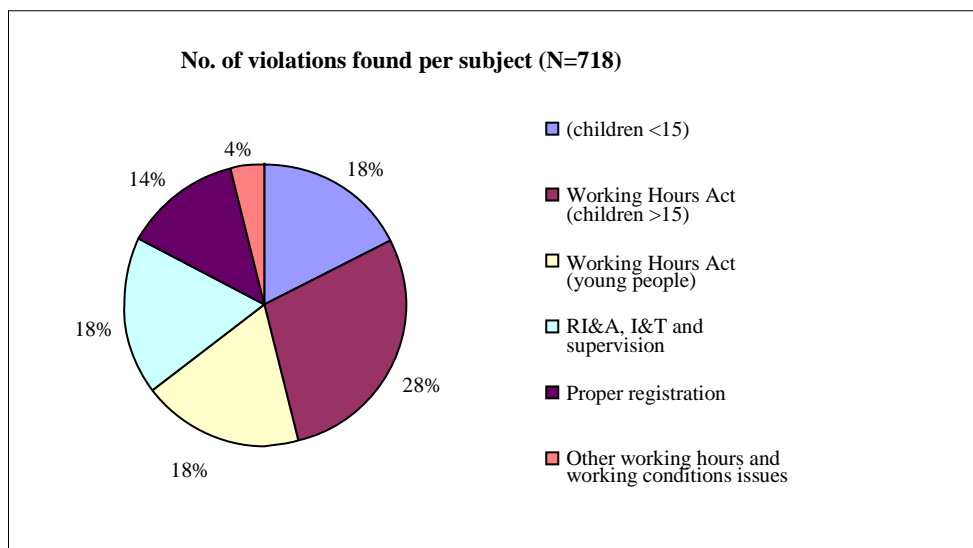
**1. Child labour**

485. The Labour Inspectorate investigates breaches of legislation relating to holiday jobs. In 2010 these investigations produced the following results regarding compliance:

<i>Sector</i>	<i>satisfactory</i>	<i>unsatisfactory</i>
Hospitality and catering	40%	60%
Agriculture/horticulture	50%	50%
Supermarkets	54%	46%
Other retail trade	62%	38%
Other sectors	70%	30%
Wholesalers	73%	27%
<b>Total</b>	<b>52%</b>	<b>48%</b>

486. The following table specifies the types of violations (risk identification and assessment (RI&A), information and training (I&T) and supervision are combined under a single heading here).

Figure 3  
**Number of violations found per subject**



**2. Part-time and holiday jobs**

487. To gain a better picture of the number of young people with jobs, information was used from the National Institute for Information on Consumer Budgets (NIBUD). The

following table lists the percentages of schoolchildren with part-time or holiday jobs by sex, age and level of schooling. Holiday jobs relate to the 2010 school holidays.

### 3. Percentage of schoolchildren with part-time and holiday jobs (N=10401)

	<i>Part-time job (%)</i>	<i>Holiday job (%)</i>
<b>Age</b>		
12	15	31
13-14	32	41
15-16	60	60
17-18	73	75
<b>Sex</b>		
Boys	41	49
Girls	44	49
<b>Level of schooling*</b>		
Upper forms VMBO	58	58
HAVO/VWO year 3	43	52
Upper forms HAVO	67	69
Upper forms VWO	62	57
<b>Total</b>	<b>42</b>	<b>49</b>

\* VMBO = pre-vocational secondary education; HAVO = senior general secondary education; VWO = pre-university education.

488. The Child Labour Order lays down rules for when children are permitted to work (working hours and hours of rest), what work they are permitted to do (light work) etc. In general there is still a dearth of reliable data on the current situation with regard to child labour. The Foundation for International Research on Working Children (IREWOC) is currently conducting research into work by minors aged twelve to fifteen.

### 4. Labour Inspectorate

489. Compliance with the rules on employing young people aged 16 and 17 was reasonably satisfactory in the sectors inspected (agriculture, catering and retail). Compliance with the rules on employing children aged 13, 14 and 15 was unsatisfactory, especially in the catering industry. Choices have to be made every year about how to deploy available inspection capacity.

490. In response to recommendation 72, risk analysis is being used in connection with deploying the personnel and resources necessary for monitoring compliance with social affairs legislation. The analysis ensures that priority is given in particular areas. The basic principle is to give the highest priority to the most serious abuses and to tackling fraud. In this connection the child labour rules will be strictly enforced in the sectors mentioned. Sectors in which other forms of child labour occur (regular holiday work) therefore have a lower priority and instruments other than inspection are deployed, for instance public education.

491. The Labour Inspectorate decided not to inspect holiday employment in 2011, partly because the relevant legislation was due to be amended in mid-2011, allowing 15-year-olds to work in the holidays until 21:00 instead of 19:00. This amendment has now been passed.

492. Since 2007, working conditions in the catering industry have been inspected by the new Food and Consumer Product Safety Authority (VWA). Because compliance in the catering industry is unsatisfactory and the working times of 15-year-olds play such a key role here, the VWA has inspected holiday employment in the catering industry in 200 locations in 2012.

493. In 2010 the Netherlands organised the ILO Child Labour Conference. In doing so, it made a substantial contribution to combating child labour. One of the positive results to emerge from this conference was the business network Child Labour Platform, for which the Netherlands took the initiative. This platform provides good examples, state-of-the-art recommendations from businesses that are actively working to combat child labour. The Netherlands is exerting itself to continue this business network, from 2012 onwards, in association with the UN Global Compact and the ILO.

## **Article 33**

### **Drugs**

494. See chapter VI. From the vantage point of criminal law, too, there is a focus on preventing the abuse of alcohol and drugs. Young people between 12 and 18 years of age who commit crimes and/or are involved in criminal and/or antisocial behaviour in which alcohol was a contributory factor can avoid acquiring a criminal record by accepting a referral to a HALT office. When alternative sanctions are imposed under the HALT system for alcohol-related offences, those concerned start with an intake interview with a HALT staff member, after which they attend a course at an institution for addiction care where they are encouraged to reflect on their behaviour and its consequences.

495. When a drug or alcohol problem is identified, a suspended penalty or a behaviour programme order may also include an intervention by the addiction care services. The government has purchased care in connection with the behaviour programme order annually since 2008, including a specific programme for alcohol and drug-related problems. In addition, young offenders' institutions pursue a strict policy on the identification and prevention of substance abuse problems and the treatment of those concerned.

## **Article 34**

### **Sexual exploitation and sexual abuse**

#### **1. Comprehensive policy and strategy**

496. In response to the Committee's recommendation 74 in respect of the Convention and recommendations 8, 9, 10, 11, 20 and 21 in respect of the Optional Protocol, the Netherlands would observe as follows. Measures to prevent and combat child trafficking are part of the overall policy to prevent and combat human trafficking. The National Human Trafficking Action Plan referred to in the concluding observations has been replaced by the Action Plan of the Task Force on Human Trafficking, which was established in 2008. Its mandate has recently been renewed until 2014 and its membership expanded. It now consists of representatives of the five government ministries involved, the Public Prosecution Service, the police, the Immigration and Naturalisation Service (IND), the Royal Netherlands Marechaussee (*Koninklijke Marechaussee*, KMAR), the mayors of Alkmaar, Utrecht, The Hague and Amsterdam, the deputy mayor of Rotterdam, the judiciary, the National Rapporteur on Trafficking in Human Beings and the NGO Comensha. Each participant has its own separate budget. The Task Force drew up an initial action plan in 2008 and approved a new plan for the 2011-2014 period in 2011.

497. One measure included in the new action plan concerns a project set up in 2010 by Rotterdam-Rijnmond police force and involving “loverboys”<sup>32</sup> or pimp boyfriends and their victims. The project will investigate methods to gather information on and stop the activities of loverboys. These methods include, for example, using social media such as chat sites. A regional awareness campaign has been set up, aimed at potential victims and traffickers. Special attention is being paid to girls with mild learning difficulties who are at particular risk of becoming victims of loverboys. The project will also examine how widespread the problem is and make organisations that work with such girls more aware of the risks.

498. Based in part on experience gained in Rotterdam, the Ministry of Security and Justice has had a handbook drawn up on tackling loverboys and providing shelter to their victims. This handbook is based on experiences in Rotterdam and was finalised in May 2012. The Action Plan also contains measures to educate and equip law enforcement organisations to counter the use of the internet for criminal activities, such as the grooming of victims by loverboys. A study commissioned by the Ministry of Health, Welfare and Sport and involving youth care institutions and women’s shelters has examined the problem of loverboys and their victims and how widespread it is. The study offers insight into the options currently available with respect to assisting and providing shelter to victims and preventing other women from falling victim to exploitation. The results were released in late 2011 and have been incorporated in the new government-wide Comprehensive Action Plan on the issue of “Loverboys”. The Action Plan is aimed at providing information to potential victims and others with direct involvement in the issue, dealing with loverboys more effectively by developing innovative methods, making more use of the help on offer from members of the public and improving victim care.

499. On 1 January 2008, following the disappearance of unaccompanied minor asylum seekers who may have become victims of human trafficking, a pilot project establishing protected reception centres was launched. These protected reception centres have been standard practice since 2011. Potential victims are placed in various small-scale locations with extra security, extra personnel and special rules: in the first few months especially, for example, they are not permitted to leave the facility without supervision. These minors receive special guidance and support and are informed about the risks of human trafficking. This is in addition to measures introduced previously, such as 24-hour supervision, cameras and key cards for doors. Police forms to be filled out in the event of a disappearance are filled out soon after a minor’s arrival, in order to avoid delays when a minor actually does go missing. Guardianship of the minor is arranged within 24 hours of arrival and the employees of asylum seekers’ reception centres are trained to recognise signs of trafficking.

500. Since 2006 more and more emphasis has been placed on policy aimed at combating child pornography and child sex tourism. The debate gained fresh impetus thanks to new legislative measures developed during the ratification process for the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“Lanzarote Convention”), which the Netherlands signed in 2007. Various television documentaries examining the actual progress made in the Netherlands on combating these

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<sup>32</sup> One measure included in the new action plan concerns a project set up in 2010 by Rotterdam-Rijnmond police force and involving “loverboys” or pimp boyfriends and their victims. The project will investigate methods to gather information on and stop the activities of loverboys. These methods include, for example, using social media such as chat sites. A regional awareness campaign has been set up, aimed at potential victims and traffickers. Special attention is being paid to girls with mild learning difficulties who are at particular risk of becoming victims of loverboys. The project will also examine how widespread the problem is and make organisations that work with such girls more aware of the risks.

problems coupled with the profound interest of all the country's political parties also led to an intense debate between Parliament and the Minister of Security and Justice. As a result, the police and the Public Prosecution Service have taken various forms of action to enhance the efforts and results of the police and criminal justice authorities in tackling the sexual abuse and exploitation of children.

501. The private sector has also taken action: for example, internet service providers teamed up with NGOs to launch the Child Pornography Hotline. This service is subsidised by the Ministry of Security and Justice, the European Commission and internet service providers and plays an important role in preventing and combating child pornography. It offers the public a simple way of reporting sexual exploitation of children. The Child Pornography Hotline office has a good relationship both with the Dutch police and (via the INHOPE network) with similar hotline offices abroad. Those offices in turn have contacts with the police in their own countries. Since 2006 the Dutch police has also been running a cyber-crime hotline, where cases of child pornography can also be reported.

502. In 2007 a new package of supplementary measures began to be implemented, aimed at enhancing expertise and capacity within the police and the Public Prosecution Service with regard to combating cyber-crime. Priority was given to combating child pornography on the internet. Two approaches were adopted to improve the handling of such cases. First, the Rotterdam supra-regional crime squad (BRT), (and in the period 2009-2011 other BRTs), started regional investigations into child pornography to supplement existing investigations at national and local level. All the knowledge and technology available within the wider police force was brought together within the BRTs, and innovative new insights were developed and tested. The BRTs' experiences were shared with local police forces and (at national level) with the Dutch Police Services Agency (KLPD). Second, the police set up a nationwide improvement programme (2008-2010) under the active direction of a national project team. The aim of the project was to develop a system that allowed the police to monitor its own efforts in this field, standardise investigative methods, enhance the exchange of information between various police teams and develop technological services like video fingerprinting and an innovative database for storing images of child sexual abuse. In addition research into the nature, scope and development of child pornography was commissioned and specific attention was paid to the identification and distribution of best practices for tackling offences in this area.<sup>33</sup> In addition research into the nature, scope and development of child pornography was commissioned and specific attention was paid to the identification and distribution of best practices for tackling offences in this area. Parliamentary Papers, House of Representatives 2007/08, 31 200 VI, no. 146.

503. At the end of 2010 this nationwide improvement programme was followed by a programme of action to combat child pornography (for the 2011-2013 period). The programme has three main priorities: "focus", "cases" and "improvement". The police want to shift the focus in child pornography investigations from downloaders to producers and to concentrate more on tracing the victims featured and so end the abuse to which they are being subjected. They also want to gain a clearer picture of the number of open cases and to reduce their considerable caseload. Finally, "improvement" relates to greater efficiency and smarter investigative techniques by means of innovative tactics and methods and the use of new technologies.

504. To coordinate these various activities effectively, the Minister of Justice in 2009 established a Task Force on Child Pornography and Child Sex Tourism, in which the police, the Public Prosecution Service, the Ministries of Security & Justice, the Interior &

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<sup>33</sup> Parliamentary Papers, House of Representatives 2007/08, 31 200 VI, no. 146.



Kingdom Relations, and of Foreign Affairs, the private sector and the National Rapporteur on Trafficking in Human Beings are represented. It has now drawn up an action plan and will lead, and monitor the progress of, the activities included in it. The Task Force facilitated the activities and monitored progress until 2011. At the end of 2011 the Task Force delivered a final report. January 2010 saw the establishment of a Child Sex Tourism Hotline, which falls within the remit of the Child Pornography Hotline.

505. In late 2010 the Netherlands was confronted with a case involving a large number of highly disturbing child sexual abuse incidents and the dissemination of images of that abuse within specific internet communities. The case took place in Amsterdam and involved a suspect's admitted abuse of more than 80 children, both in day-care centres and in their own homes, where the suspect worked as a child minder. By judgement of 21 May 2012 the prime suspect was sentenced to 18 years imprisonment and order for confinement in a custodial Clinique. The investigation of these incidents is still ongoing, both nationally and internationally. At this moment this investigation leads to 508 cases of child abuses and 33 arrests of suspects internationally. This heinous case aside, interim evaluations of the programmes described above and the outcomes of the police monitoring system also led to the conclusion that profound restructuring was needed. Therefore, since May 2011 the police and the Public Prosecution Service (overseen by the Ministry of Security and Justice) have been working to implement a new national structure for dealing with child sexual abuse. As of January 2012 the Public Prosecution Service and the police prioritise and monitor the handling of cases through a new national steering committee. Specific investigations will be handled by a national team or by one of ten decentralised teams. Since 1 October 2012 the total strength of teams dedicated exclusively to dealing with child sexual abuse is 150 persons — a substantial increase in personnel.

506. The Minister of Security and Justice has set specific targets for the years ahead. Police aim to submit 7.5% more child pornography suspects (where such pornography relates to child sexual abuse) to the Public Prosecution Service, rising to a 25% increase by the end of 2014. Investigations will as far as possible target those cases in which victims have been (or are still being) submitted to actual abuse. Victims of child pornographers and their parents can obtain help and support from Victim Support Netherlands. Where necessary the organisation will refer victims to specialised support services and legal aid providers. Child pornography "downloaders" need to be tackled too, however. Measures to be developed include alternative approaches, such as voluntary treatment, and agreements with the probation service about periodic inspections of offenders' computers and mobile data devices.

507. Evaluation of the Amsterdam case has in fact gone beyond the role of the police alone. In the wake of the scandal, the city's municipal council commissioned an independent inquiry by a committee led by Louise Gunning-Schepers. The inquiry and its resulting report of April 2011 were intended to prevent similar abuse of such large numbers of children in the future. The committee's recommendations, aimed at national policy, were adopted in their entirety by the ministers responsible (i.e. the Ministers of Social Affairs & Employment and of Security & Justice). These also led, in part, to the changes in the police and justice system outlined above. They have also inspired new policy frameworks for supervision of childcare and for the investigation of relevant criminal records.

508. To combat child sex tourism, the Royal Military and Border Police (KMAR) has since 2007 been running annual special "action days" at Schiphol Airport together with the Customs Administration and the police. On these days, passengers on incoming flights from countries associated with child sex tourism are checked for the possession of child pornography. In March 2011 and in January 2012 the Netherlands also took part (along with the UK, Germany, Sweden and others) in an international action day coordinated by Europol. Combating child sex tourism is increasingly being integrated with efforts to tackle

child pornography, since the material found in the Netherlands is often produced in countries associated with child sex tourism (e.g. in Southeast Asia).

509. In 2009 the mandate of the National Rapporteur on Trafficking in Human Beings was extended to include child pornography. The first report on the subject was published in October 2011 and highlighted both current efforts to protect children from sexual violence and areas for improvement. It reported, for example, that the production of child pornography is almost always linked directly to sexual violence against children. The core message was: “Children have a right to protection against all forms of sexual violence. Efforts to tackle child pornography must be part of an integrated strategy for dealing with sexual violence against children. Cohesion, coordination and monitoring are all essential elements in this respect.”

510. The Dutch government agrees with this message. By way of follow up it has fleshed out the Rapporteur’s recommendations and included them in its action plan on child abuse and neglect, sent to the Dutch House of Representatives in 2011. The findings are also consistent with the amended strategy of the police and justice system in tackling child pornography, as discussed in section 481.

## 2. Large-scale study

511. In 2009, the then Minister of Justice commissioned a study on (exploitation of) male child prostitutes,<sup>34</sup> comprising a literature study, analysis of national police data on this phenomenon and information provided by care and support services. The researchers also reviewed earlier field research carried out in Amsterdam and Twente (a rural area). File research and records analysis showed that, nationwide, around 680 cases of sexual abuse of boys outside the family environment are registered annually.

512. The researchers succeeded in interviewing a total of 44 boys in the two regions who fitted the scope of the study. Seven were minors who had performed sex for money and 37 were men between the ages of 18 and 21 who had also performed paid sex before reaching the age of 18. The researchers checked the participants’ IDs to verify their ages. The study showed that underage boys make up only a tiny minority of sex workers. Certain clients have a specific preference for a particular ethnic “type”, namely Moroccan boys. These boys in turn exploit this preference combined with the clients’ preference for youth.

513. In 2007 the Ministry of Justice’s Research and Documentation Centre published an overview of the literature available on the current state of affairs and level of knowledge surrounding “high-tech” crime (and specifically those responsible for such crime — including organised crime groups). This study also focused on crimes that, while they do not require the use of ICT (e.g. child pornography and extortion), nevertheless can be carried out more efficiently since the advent of more advanced ICT tools. One conclusion was that the internet is a highly popular tool for committing such offences, thanks mainly to the large available online market and the relatively small chance of getting caught. The trade in child pornography in particular, where the product itself is also available in digital format, is increasingly shielded by advanced technological solutions. Various notable insights on the techniques employed were set out as part of this overview. Criminal profiles were then drawn up (including in relation to child pornography), although owing to the limited information and expertise available, these were very rudimentary. Policy and police investigations could nevertheless be based on these profiles.

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<sup>34</sup> Korf D.J., A. Benschop & J. Knotter (2009), *Verborgen werelden: minderjarige jongens, misbruik en prostitutie* (Hidden worlds: Underage boys, abuse and prostitution), Amsterdam: Rozenberg Publishers.

514. In 2009 the programme office of the police's "programme of action" to combat child pornography commissioned a study on the relationship between the downloading of child pornography and the sexual abuse of children. The study looked specifically at whether those who download such material are more likely to sexually abuse children in practice. The study concluded that such a link is not easy to establish and that further research is required. This will be carried out in due course.

### 3. Data collection

515. According to the National Rapporteur on Trafficking in Human Beings, in 2006 there were 103 child victims of human trafficking in the Netherlands; in 2007, the figure was 199; in 2008, 169, in 2009, 111, in 2010, 152 and in 2011, 195.

516. The numbers of registered criminal cases involving child victims of human trafficking (2000-2008) are as follows:

	<i>Cases registered by Public Prosecution Service</i>		<i>Cases involving victims below the age of majority</i>	
	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>
2000	139	100%	38	27%
2001	130	100%	27	21%
2002	200	100%	27	14%
2003	156	100%	41	26%
2004	220	100%	32	15%
2005	138	100%	36	26%
2006	201	100%	25	12%
2007	281	100%	56	20%
2008	214	100%	26	12%
2009	141	100%	25	18%
2010	215	100%	35	16%
255		100%	55	22%
<b>Total</b>	<b>2290</b>	<b>100%</b>	<b>308</b>	<b>18%</b>

*Source:* National Rapporteur on Trafficking in Human Beings (2010). Human Trafficking – ten years of independent monitoring and National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2012). *Mensenhandel in en uit beeld* [in Dutch only]. Statistical report (2007-2011.)

Table 8

#### **Child pornography: number of cases received and disposed of by the Public Prosecution Service**

	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>
Received	410	380	390	450	480
Disposed of	430	370	380	420	510
Writs of summons	330	300	300	330	400
Convictions	340	250	270	240	320

*Source:* Public Prosecution Service, 2010 Annual Report.

#### **4. Statistics on compensation for child victims and child sex tourism**

517. Information on compensation for victims is included in the section on article 39. The National Rapporteur on Trafficking in Human Beings publishes figures for the total number of victims awarded damages in cases that led to human trafficking convictions. To be eligible for damages in a criminal case, victims have to join the public prosecutor's case. The numbers published by the Rapporteur are not filtered by age of victim, so it is not known how many child victims receive damages.

#### **5. Allocation of sufficient resources**

518. In response to recommendations 16 and 17 in regard to the Optional Protocol the Netherlands would observe as follows. As mentioned previously, as of 2012 the teams wholly dedicated to tackling child sexual abuse consist of 150 persons. This is a substantial increase in personnel compared with 2006.

519. There is no separate budget for combating human trafficking, however the 17 organisations that make up the Task Force on Trafficking in Human Beings spend a considerable amount combatting it. More than 200 cases of trafficking are investigated and brought to trial each year. There is a registration system for victims. The number of victims of trafficking (children and adults) rose to 993 in 2010, of whom 226 needed and were provided with shelter, and to 1222 in 2011, of whom 280 were provided with shelter. In 2010 a two-year pilot project was launched, providing specialised shelter for 40 female and 10 male victims of human trafficking (and their children). In the summer of 2012 the shelter programme was made permanent and the total number of places was increased to 70. This project includes research into the best way to provide support and care to victims. The shelter will be made permanent and the number of places will increase from 50 to 70. An annual amount of € 2 million has been made available by the three ministries involved to finance the specialised shelter

520. Awareness campaigns are carried out each year and training is offered to staff of the organisations involved. Legislation is regularly updated, guidelines and information on best practices are drawn up, websites created, conferences and seminars organised and new research commissioned. The National Rapporteur is supported by a small staff which conducts research and drafts the annual reports.

521. The Netherlands also has an Expertise Centre on Human Trafficking and People Smuggling, which collects and analyses information with a view to supporting or initiating police investigations. It also provides specialised training courses for officers from other police units on investigating cases involving human traffickers. It is made up of employees of the National Crime Squad, the KMAR, the Immigration and Naturalisation Service (IND) and the Social Security Intelligence and the Social Affairs and Employment Inspectorate which consists of the former Labour Inspectorate and the Social security Intelligence and Investigation Service (SIOD). The Netherlands finances bilateral projects with several countries and actively participates in formulating international policy and legislation at UN, EU and Council of Europe level.

#### **6. International cooperation**

522. In response to the Committee's recommendation 74(b) in respect of the Convention and recommendation 31 in respect of the Optional Protocol, the Netherlands would observe as follows. In 2009 and 2010 the Netherlands provided substantial funding in support of a broad-based, ongoing UNICEF programme providing technical assistance to Cambodian law enforcement authorities (notably the National Police's Anti-Human Trafficking and Juvenile Protection Department) to tackle abuse of children associated with child sex tourism. Various other activities in the field of prevention and victim care were included in

the project. The Netherlands' contribution was aimed at activities in the border provinces with Thailand and Vietnam and in the province of Siem Reap, a popular tourist destination. These included awareness-raising at schools, victim care and various training activities. The project also supported efforts by the Cambodian authorities to curb child trafficking across the border with Thailand and Vietnam.

523. In 2008 the Netherlands made a commitment to the Dutch branch of Terre des Hommes to fund a three-year project aimed at providing legal assistance to victims of child sex tourism, encouraging them to serve as witnesses, and helping local NGOs develop the capacity needed to pressure law enforcement authorities to take action as required. Terre des Hommes is working alongside APLE (Action Pour Les Enfants) and CWCC (Cambodian Women's Crisis Centre) on this project.

524. In 2008 funding was approved for a project by ECPAT Netherlands which was implemented between April 2009 and December 2010. An important aspect of the project was persuading travel agencies, tour operators and hotel resorts to approve and implement a code of conduct aimed at preventing child sex tourism. The project included cooperation with local NGOs in Thailand, Cambodia, Philippines, the Gambia and the Dominican Republic. A two-year follow-up project was approved in early 2011.

525. Following signals that Nigerian minors were disappearing from asylum seekers' reception centres, a major investigation was launched in October 2006. The investigation established that traffickers were temporarily housing Nigerian girls in reception centres in the Netherlands (by forcing them to claim asylum) with a view to moving them to Southern Europe and then forcing them into prostitution. Ten other countries were involved in the investigation, which led to 32 arrests and searches across eight countries in November 2007, and a further 51 arrests in Italy in January 2008. Eight persons were convicted by the court of appeal on 12 March 2012.

526. Another measure taken was the deployment of a "Swift Action Team" (SAT) to Nigeria. This team comprised KMAR and IND personnel, who are trained to recognise signs of human trafficking, people smuggling and falsified documents. In the space of a month in early 2008, they checked the passengers of 12 KLM flights from Nigeria to the Netherlands before boarding for indications of human trafficking and people smuggling. The aim was to prevent potential victims of trafficking from travelling to the Netherlands and ending up in an exploitative situation. No potential victims were identified in this period, and the number of attempts by Nigerians to enter the Netherlands illegally through Schiphol Airport declined. Although we cannot be sure, advance knowledge in Nigeria of the SAT's deployment seems to have had a preventive effect. The arrests that resulted from the investigation may also have influenced the number of subsequent attempts at illegal entry. These measures complement the protected reception centres discussed above.

527. The Netherlands works closely with the main countries of origin in respect of victims of human trafficking, both through capacity-building and joint investigations. Capacity-building projects have been carried out in Bulgaria, Romania and Nigeria. In early 2011, the Netherlands set up three Joint Investigation Teams on human trafficking with Bulgaria. With financing from the Ministry of Foreign Affairs' human rights fund, and in cooperation with the Romanian anti-trafficking agency and the Romanian child helpline, a project was launched in February 2012 to combat trafficking in children. The Netherlands has also funded projects in India aimed at fighting child labour.

## **7. Awareness and training**

528. In response to recommendation 74 (c) and (f) in respect of the Convention and recommendations 15 and 23 in respect of the Optional Protocol, the Netherlands would observe as follows. In January 2010 the Minister of Security and Justice launched a child

sex tourism awareness campaign warning Dutch tourists that child sexual abuse is a criminal offence and advising how to report suspicious situations. The Minister also launched a special website for reporting instances of child sex tourism. On 24 October 2012 a follow-up campaign against child sex tourism was launched with the dual aim of improving the reliability of reports and continuing to draw the public's attention to the issue.

529. On 13 January 2010 the Minister of Justice also signed a joint declaration with the Dutch Association of Travel Agents and Tour Operators (ANVR) in which they agreed to cooperate more closely on preventing child sex tourism. Thanks in part to this cooperation with the ANVR and ECPAT NL, the subject has now become a regular part of the training of tour guides and travel agency employees.

530. In the Netherlands sexual offences are investigated by specialised detectives. The police training programme includes a certification process which includes special courses that build expertise on sexual offences. In the various police regions, certified detectives form part of dedicated departments and, where possible, provide support to members of the wider police force. Since 2010 a separate training course has been given to police officers tasked with analysing seized material (such as pictures and videos) for the presence of pornographic images involving children.

531. Where youth prostitution is concerned, NGOs have offered training on this issue to social and preventive workers, police officers, local and provincial authorities and schools. The Ministry of Health, Welfare and Sport set up a programme, which included an awareness campaign, to promote sexual health among young people and prevent problems before they arise. The "Sexual Resilience" campaign ran until the end of 2011. Its objective was to make young people more savvy with regard to sex and relationships and help them avoid problems such as sexual coercion and unwanted pregnancies. The Ministry of Education, Culture and Science has made extra funds available for boys' sex education and teaching children how to deal with the messages they receive from the media. These media-themed activities are currently in development. Previous evaluated sexual health intervention activities can be found in the interventions database at the Healthy Living Centre run by the National Institute for Public Health and the Environment.

532. In the Netherlands, free, voluntary and anonymous surgeries on sexual health issues are held for young people, in which attention is paid to sexual assertiveness and sexual violence. In addition to the work of family doctors, such surgeries have since 2008 been offered throughout the Netherlands: a nationwide service managed by eight coordinating municipal health services (GGDs)<sup>35</sup> in cooperation with other GGDs within the region concerned. The GGDs also work with local partners like FIOM (an NGO specialising in pregnancy and adoption), mental health centres and abortion clinics. The programme also conducts many outreach activities, providing peripatetic sexual health surgeries (in regional training educational centres or mobile units, for example) and activities at festivals. The country's STI outpatients' clinics watch out for signs of youth prostitution, including underage male prostitution. Victims of loverboys may be admitted into closed youth care facilities, where they can receive the protection they need.

533. NGOs have set up various websites where children and young people can find information and chat with social workers about the tactics employed by loverboys, sexual abuse/harassment on the internet, relationships, privacy, intimacy, sexuality, LGBT issues

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<sup>35</sup> Municipality of Amsterdam; Nijmegen region; Care Services and Public Health Care (Joint Arrangement) Groningen; GGD Division, OCW Department, municipality of The Hague; municipality of Rotterdam, Hart voor Brabant (public body); South-Limburg region and municipality of Utrecht.

and having safe cybersex. One example is a website ([www.helpwanted.nl](http://www.helpwanted.nl)) that has been set up to enable young people (and parents) to ask questions, find support and report sexual abuse. E-coaching for teenagers with low self-esteem is also available.

534. Audio-visual recordings have to be made of statements by persons under 16. What is more, any statement by a child under 12 has to be taken in a child-friendly environment. Law enforcement officials have to be certified to be able to take statements from children under 12. The Public Prosecution Service's instructions on human trafficking further stipulate that the public prosecutor may object to a child victim being questioned in court.

535. Law enforcement officials also need to be certified to take statements from victims of human trafficking. The necessary training is provided to regular police officers and to investigators from the KMAR and the Social Affairs and Employment Inspectorate.

536. In 2011 labour inspectors and team leaders of the Social Affairs and Employment Inspectorate received training on human trafficking with specific focus on the role of potential victims. Training is also being provided to public prosecutors and judges, municipal employees and consular officials. The course covers the "loverboy" phenomenon as well as specific provisions of article 273f of the Criminal Code relating to minor victims (e.g. the fact that the use of means of coercion does not need to be proven in cases where the victim is under 18).

537. Employees of reception centres for asylum seekers are also trained to recognise signs of trafficking. The IND uses risk profiles to help identify at-risk minors at an early stage.

## 8. Legislation

538. The Netherlands would observe as follows in response to the Committee's recommendations in respect of the Convention and the Optional Protocol on making it a criminal offence to produce or disseminate materials advertising child prostitution, child pornography or the sale of children. Article 9, paragraph 5 of the Optional Protocol has a preventive character. Up to now, the Netherlands has implemented this provision through administrative rules (e.g. agreements with the media to ban such advertisements). Under certain circumstances, prosecution of these acts is possible. Further to the recommendation of the Committee the Netherlands has assessed whether additional legislation is desirable. However, negotiations at EU level began simultaneously on the draft Directive of the European Parliament and the Council on combating the sexual abuse and sexual exploitation of children and child pornography. A similar provision was included in the draft Directive. The Netherlands thus considered it sensible to await the outcome of the negotiations on the draft Directive before deciding whether to initiate new legislation. The Committee's recommendation will now be included in the process of implementing the Directive.

539. Where combating the sexual exploitation and abuse of children is concerned, the legislative challenge is to keep abreast of technological developments as far as possible. Protection of children under the criminal law has to take into account the effects of technological progress and the ongoing "digitisation" of society. This has recently been addressed at international level too. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse is expressly aimed at offering children protection against the negative effects of such progress, such as the new forms of abuse that occur in cyberspace. The Netherlands was one of the first countries to ratify this important Convention, which reflects the latest international consensus in this policy area. Implementation of the Convention has led to tightened legislation in three important areas: (1) increasing the penalties for child pornography (see article 240b of the Dutch Criminal

Code), (2) making corrupting children a criminal offence and (3) making “grooming” by pimps a criminal offence. The legislation entered into force on 1 January 2010.

540. On 9 June 2009, Parliament approved a bill submitted by the Minister of Justice to further increase the maximum penalties for trafficking in human beings. With this change the maximum penalty for the basic offence was raised from 6 to 8 years’ imprisonment; to 10 years if two or more persons are acting in concert; to 15 years if serious bodily injury has been caused; and to 18 years if the offence caused a person’s death. As a consequence of the higher penalties, the preparation of such an offence also became a criminal offence (see article 46 of the Criminal Code). The new maximum penalties entered into force on 1 July 2009. A bill is currently before the House of Representatives in order to increase the maximum sentence for people committing the basic offence to 12 years. The maximum penalty will go from 12 to 15 years imprisonment if two or more persons are acting in concert; from 15 to 18 years if serious bodily injury has been caused; and from 18 years to 30 years or life imprisonment in case of death (Parliamentary Papers II 2011/12, 33185).

541. The Dutch Parliament approved an extension of extra-territorial jurisdiction as part of the implementation of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings (Bill no. 31 391). Since 1 March 2010, extra-territorial jurisdiction has been extended to human trafficking committed abroad by permanent Dutch residents (regardless of the age of the victim) in cases where there is double criminality, and to human trafficking committed abroad against Dutch nationals. The Netherlands became a party to the Council of Europe Convention on Action against Trafficking in Human Beings on 1 August 2010.

542. The bill to regulate prostitution and to combat abuses in the sex industry was passed by the House of Representatives on 29 March 2011.<sup>36</sup> This bill includes a provision to raise the minimum age of prostitutes/sex workers from 18 to 21 years.

543. There is no specific provision in Dutch law relating to child sex tourism. However, child sex tourists can be prosecuted under article 248b of the Criminal Code.

## **9. Specific mechanisms**

544. The Netherlands would observe as follows with regard to the Committee’s recommendation 13 in regard to the Optional Protocol. There is no separate coordinating mechanism to combat the sale of children, child prostitution and child pornography. In the Netherlands these kinds of problems are dealt with according to the criminal offence concerned and not according to the type of victim. The Task Force on Human Trafficking and the Task Force on Child Pornography and Child Sex Tourism each have their own action plans. In the 2007-2010 period there was also a Steering Committee on Tackling Child Abuse with its own action plan, “Children Safe at Home”. The new Action Plan “Keeping Kids Safe” was launched at the beginning of 2012. Use of the domestic violence and child abuse protocol has also become mandatory; it ensures that professionals (e.g. teachers and physicians) know what to do when they suspect a child is being abused. The bill setting out the mandatory protocol was submitted to the House of Representatives at the end of October 2011. Primary responsibility for tackling human trafficking, child prostitution and child sex tourism resides with the Ministry of Security and Justice. Where child abuse is concerned, responsibility is shared between that Ministry and the Ministry of Health, Welfare and Sport.

545. Where necessary special arrangements are made for child victims of all these offences. Examples include the protocol for taking statements from children and

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<sup>36</sup> Parliamentary Papers, Senate 2010/11, 32 211, A.



investigating offences in which they have been victims and the care for child victims within the youth care system. Preventive measures are also employed, such as the programmes and websites mentioned above to teach children about relationships and sexual health. Further broad-based measures of this kind may be taken as the need arises.

#### **10. Care/shelter**

546. In response to the Committee's recommendations 28 and 29 in respect of the Optional Protocol, the Netherlands would observe as follows. The Netherlands has several reporting centres and social care projects in place for victims of "loverboys", providing specific care for these victims. If necessary, the girls are referred to a Youth Care Office. It will assess the situation of the girl (and her family). Certain youth care organisations offer programmes intended to teach vulnerable girls to be more assertive and stand up to loverboys.

547. These programmes are included in the regular youth care system. If secure arrangements are needed to prevent a minor from either running away or being coerced to leave, the child in question will be eligible for closed youth care.

548. The youth care services do not offer special services for girls who have been the victims of loverboys. Closed youth care institutions identify the problems of each juvenile in their care and offer them the most suitable treatment. The same applies to girls who have been victims of loverboys. There is however a dedicated shelter for such women, Asja, run by Fier Fryslân. As mentioned above, research into increasing youth care workers' expertise in caring for child victims of trafficking is in progress.

549. As mentioned above, the results of a study commissioned by the Ministry of Health, Welfare and Sport examining the problem of loverboys and their victims and how widespread it is were released late 2011. These findings will be incorporated into the action plan for the interagency programme aimed at tackling the loverboy problem.

550. In 2010, the then Minister of Justice and the then Minister for Youth and Families established the Samson Committee, which is conducting independent research into sexual abuse of children taken into youth care or living with foster families. The committee presented its findings in October 2012. The study covers the period from 1945 to the present day. 500 people have contacted the committee to report cases of abuse. The Committee presented its report on 8 October 2012 and made recommendations aimed at preventing future incidents of sexual abuse. The Committee realises that it is impossible to eliminate sexual abuse altogether. The Committee had received over 800 reports by the time the report was published. The State Secretary of Health, Welfare and Sport, the Ministers of Security and Justice and the Minister for Immigration presented their response to the report to the House of Representatives and spoke to a delegation of victims.

551. The Netherlands agrees with the aims of the Committee's General Comment No. 6 and with most of the remarks contained in it. In fact, most of the matters raised are already part of asylum policy and practice in the Netherlands. The Minister for Immigration, Integration and Asylum Policy recently announced a review of current policy on unaccompanied minors. The goal is to achieve an even faster and better asylum procedure for unaccompanied minors, so that the minor in question receives clarity sooner on his or her prospects for asylum. Once an asylum application has been rejected, return should take place as soon as possible.

### **Article 35**

#### **National, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children**

552. In response to recommendations 26 and 27 (to ensure that national legislation complies with articles 2 and 3 of the Optional Protocol), the Netherlands would observe as follows. The sale of a child for the purpose of sexual exploitation, the transfer of a child's organs for profit or the engagement of a child in forced labour – as described by article 2 in conjunction with article 3 of the Optional Protocol – are all criminal offences under article 273f of the Criminal Code. The basis for prosecution of improperly inducing consent in cases of adoption can be found in the Placement for Adoption (Children of Foreign Nationality) Act. The act of improperly inducing consent when adopting a child renders any such adoption illegal under the provisions of the Act, and constitutes a criminal offence.

553. For more information on adoption and the sale of children, please see the section on article 21.

### **Article 36**

#### **Protecting children against forms of exploitation**

554. In the Netherlands the Social Affairs and Employment Inspectorate, founded on 1 January 2002, combats the misuse of social legislation and benefits. This includes human trafficking for the purpose of labour exploitation, as well as related offences such as labour by (illegal) aliens from outside the EU without a work permit and/or by benefit recipients; excessively low wages; poor working conditions; extortion and threats or violence. Indications of potential labour exploitation are received via the police, the Inspectorate's own labour inspectors, other inspection services and anonymous tips from the public. The Social Affairs and Employment Inspectorate also participates in the Expertise Centre on Human Trafficking and People Smuggling mentioned in the section on article 34.

555. To date, the Social Affairs and Employment Inspectorate has not encountered exploitation in relation to child labour, though in highly exceptional cases it does encounter minors in its investigations. Further to the new EU Directive 2011/36/EU, the Social Affairs and Employment Inspectorate is well aware of the rights and position of victims of exploitation — particularly minors — as they are an extremely vulnerable group. The Foundation for International Research on Working Children (IREWOC) has produced two reports on the basis of research carried out among 2,500 school children aged 12 to 15, their parents and their teachers: “Baantjes en Klusjes, Kinderarbeid in Nederland” (Work and Odd Jobs, Child Labour in the Netherlands) in January 2012 and “Kinderen aan het werk: Uitbuiting en Kwetsbaarheid” (Children Working: Exploitation and Vulnerability) in June 2012. The researchers observed that child labour is becoming more accepted, and no one is asking questions about the impact on children's development or the potential for harm. Earning money is becoming a greater priority for parents as well as children. Breaches of statutory rules on age, working hours and type of work were observed. Approximately half of the children surveyed had a job at the time or had had one, including 31% of 12-year-olds (children in this age group are not allowed to work). A majority of the children (63%) indicated that they experienced work as a tiring activity. Although there seemed to be no cases of actual exploitation, according to the researchers there is potential for abuse: children are a vulnerable group, are easily pitted against one another, work on the fringes of society for low wages, cannot plan their time independently and miss out on sports and other fun activities.

## **Article 30**

### **Education for ethnic and language minorities**

#### **1. Native minority languages**

556. The European Charter for Regional or Minority Languages has been in force in the Netherlands since 1 March 1998, as a result of which Frisian, Dutch Low Saxon and Limburgish — all three of which are also Germanic languages — gained the status of officially recognised regional language. Yiddish and Romani are recognised as non-territorial languages. Part III of the charter, setting out measures for the protection and promotion of regional languages, concerning matters such as education, applies only to Frisian. Frisian is spoken in Friesland province. Pupils at schools in Friesland are taught in both Dutch and Frisian, unless the Provincial Executive grants an exemption from this obligation at the request of the competent authority.

557. Dutch Low Saxon, a group of non-standardised West Low German dialects, is spoken in the provinces of Groningen, Drenthe, Overijssel, Gelderland (Veluwe and Achterhoek regions) and Oost- and West-Stellingwerf in southeast Friesland. Limburgish is a West Meuse-Rhenish dialect spoken in Dutch (and Belgian) Limburg. The Frisian language or living dialect may be used as the language of instruction in schools if the Frisian language or living dialect is used alongside Dutch.

#### **2. Ethnic minority languages**

558. The main ethnic minority (not ethnically Dutch) groups in the Netherlands are Turks, Moroccans, Surinamese and Antilleans. The number of ethnic minority pupils in the country's major cities continues to rise. The language of instruction for all pupils at primary and secondary school is Dutch. Outside lessons, pupils are free to communicate in their own language, or to take lessons in their own language. All secondary schools may offer modern Arabic and Turkish as examination subjects, and all pupils are free to choose them.

#### **3. The consequences of segregation (recommendation 62 a)**

559. High-quality education helps promote equal opportunities and social integration. The present government is promoting integration by focusing on the quality of education. It is investing in teachers, and taking measures to prevent failing schools and early school leaving. Vulnerable pupils are given extra attention in the form of pre-school and early years education, compensatory policy and special needs provision. The social or ethnic background of the pupils attending a given school makes no difference. Primary school pupils usually attend the school nearest their home, so schools often reflect the population of the neighbourhood in which they are located. Schools with large numbers of disadvantaged or ethnic minority pupils are also able to deliver the highest possible quality.

560. This government's education policy is designed to ensure that every child can develop its talents to the full. Legislation that came into force in 2010 makes municipalities responsible for ensuring comprehensive provision for children aged two-and-a-half to four with a language disadvantage. The budget has been increased, to allow municipalities to actually fulfil this responsibility. The legislation also aims to achieve more cohesion in pre-school provision, and to ensure it prepares children more adequately for primary school.

561. Compensatory policy involves the weighting system in primary education and the Learning Plus Funding Scheme in secondary education, under which schools with disadvantaged pupils receive extra money to enable them to provide the best possible support. The weighting system provides funding for pupils on the basis of their parents' level of education and the school's postcode. Under the Learning Plus Funding Scheme, secondary schools receive extra money if they have a relatively large proportion of pupils

from deprived areas. They can use this money to offer tailor-made provision to prevent them from falling behind or leaving school early.

562. Legislation on primary and secondary education stipulates that municipalities and school boards must hold annual consultations on how to tackle educational disadvantage and promote integration. Twelve municipalities are currently running pilot projects in primary schools to develop tools for this purpose. Useful tools will be made available for putting policy goals into practice at local level. The tools being developed are:

- A joint enrolment procedure for all new primary school pupils, based on the principle that pupils should go to their local school (to prevent “white flight”);
- Giving parents better information on their choice of school, by organising such things as group visits to local schools;
- Encouraging parents’ initiatives designed to achieve more ethnic mixing in local schools.

## **Part two**

### **The Netherlands in the Caribbean**

#### **Introduction**

563. Since 10 October 2010, Bonaire, St Eustatius and Saba have been part of the polity of the Netherlands. They are public bodies designated collectively as “the Netherlands in the Caribbean”. Though these three islands had been part of the Kingdom of the Netherlands before that date, they were then under the responsibility of the Netherlands Antilles.

564. Although the Netherlands in the Caribbean is part of the polity of the Netherlands, the situation there differs from that in the European part of the Netherlands, both in general and in the specific area of youth provision. It was therefore decided to devote a separate section to explaining developments relating to the rights of the child in this region. Because of the small size of Bonaire (population 16,000) and especially of St Eustatius (population 3,600) and Saba (population 1,800) and their geographical location, the assumptions about the effects of policy that are customarily made in the European part of the Netherlands do not apply.

565. In accordance with recommendations 79 and 81, the Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography entered into force in respect of the Netherlands in the Caribbean on 10 October 2010.

#### **I. Basic principles underlying the Netherlands’ drive to improve youth services in the Netherlands in the Caribbean**

566. In the run-up to the change in the status of Bonaire, St Eustatius and Saba to public bodies of the Netherlands, regular consultations were held between the ministries in the Netherlands and the island executives. The islands identified four priority areas that were in need of extra resources from the Netherlands straight away, starting in 2009: security, health care, youth provision and education. Administrative agreements were made on these resources in November 2008. Officials posted to the Netherlands in the Caribbean from the

European part of the Kingdom set about implementing these agreements, on the basis of the following general principles:

- Wherever possible the Antillean legislation would be adopted; amendments would be proposed only when deemed really essential.
- The details of implementation would be carefully coordinated with the islands.
- Since it was impossible to tackle everything at the same time, choices would have to be made.
- The small scale involved would demand a more integrated approach.
- The focus would be on identifying action that produces concrete results as fast as possible.

## **II. The situation of young people on the islands in 2009**

567. Concern was expressed about the situation of young people on all the islands:

- The influence of the family is crumbling; parents display a lack of involvement in their children's lives. This is partly related to the large number of single-parent families, and to the fact that parents frequently have to work long hours to earn a living, and are therefore not there in the afternoon when their children come home from school. Poverty is rife.
- Young people tend to get bored easily, and their prospects are poor.
- Young people have fairly unhealthy lifestyles and many are overweight.
- The number of teenage mothers is rising.
- Sexually undesirable behaviour takes place (both within the youth population and between young and older people).
- There is a great deal of aggressive and antisocial behaviour among children of secondary school age. More young people are coming into contact with the police and the courts.
- Education is badly in need of improvement. Pupils achieve poor results (including in reading, writing and arithmetic).
- Truancy rates are high.

568. At the same time, the islands were afflicted by a lack of services that made it impossible to tackle problems adequately. School buildings were in a poor state, there were no youth care or youth probation services, and youth protection services were poor and overstretched. Youth health care services were incomplete. A large number of small independent organisations existed, each one relying for its existence on small funds and government grants. There was a shortage of long-term funding, and too little cohesion among the various separate initiatives.

## **III. Progress made in the area of education**

### **1. The Dutch education system**

569. Since 10 October 2010, the Minister of Education, Culture and Science (OCW) has been responsible for education policy on the islands. It has been agreed with the island executives that schools will operate in accordance with the principles of the Dutch

education system, where necessary supplemented by arrangements tailored to the islands' requirements. Pupils will have the opportunity to gain qualifications equivalent to those issued in the European part of the Netherlands.

## **2. Educational standards must be raised**

570. The goal is to improve the quality of education at schools in the Netherlands in the Caribbean to a level that is acceptable by Dutch and Caribbean standards. An "education agenda" has been prepared for this region, containing agreements for the next five years on improving the quality of education in all the schools on the islands. The education agenda was discussed with school boards, head teachers and public bodies, after which it was formally adopted and signed at the education conference held on Bonaire on 25 and 26 March 2011.

571. Schools have already been hard at work improving the quality of education over the past few years. Pupils have been tested several times, and results have in general improved, certainly among children of compulsory school age. Many schools are working diligently to make changes and improvements. In conjunction with the Primary Education and Secondary Education Councils, experienced school coaches have been appointed to give support.

## **3. Improvement in basic facilities and resources**

572. With the aid of financial support from OCW, a range of basic facilities and resources at schools — such as furniture and teaching aids — have been improved. Workshops have been held on the use of the new teaching materials.

573. Internal supervisors and care coordinators have been trained to take stock of the need for care at schools. As from August 2011, every island has its own Special Educational Needs Expertise Centre, enabling extra care to be given to pupils who need it. This involves an effective partnership with youth and family services.

574. The Custodial Institution for the Netherlands in the Caribbean launched a two-year educational pilot project. Teaching staff from Bonaire comprehensive school teach classes for 15 hours a week. An evaluation will be carried out after twelve months, and adjustments made where needed.

## **4. Buildings**

575. Much progress has also been made to improve school buildings. The school building plans for 2010 to 2015 were presented at the education conference held on 25 and 26 March. The public bodies and the Netherlands are together investing USD 41.5 million.

576. Pending the implementation of these plans, the following projects have already been launched on the islands:

- On Bonaire: new buildings for the upper forms of Bonaire comprehensive school (senior general and pre-university streams) and preparations for the community school at the Papa Cornes and Pelikaan primary schools;
- On St Eustatius: the expansion (by four new classrooms) of Bethel Methodist School and a contract concluded for the renovation of the Golden Rock School;
- On Saba: the renovation of a former tannery into a location for vocational education for Saba Comprehensive School and preparations for the community school in The Bottom.

577. On 1 January 2011 block grant funding was introduced. School boards are now responsible for deciding how the grant allocated by central government should be spent.

## **IV. Prevention and help with educational and developmental problems**

### **1. Separate plans for each island**

578. There was a need for rapid improvements in the youth sector. The islands of Bonaire, St Eustatius and Saba urged the need for these improvements during the preparations for the change of status to public bodies of the Netherlands. They identified numerous problems: single-parent families, domestic violence and sexual abuse, teenage pregnancies, truancy, and a growing number of young people going astray. Risk factors (poverty, single-parent families) are far higher than in the European part of the Netherlands, while there is too little scope for development, and the youth care and youth protection sectors are inadequate.

579. In response, the Dutch government made €3 million a year available in 2009 and 2010. In 2009 this was converted into a long-term budget. Plans were made for each island, together with the professionals concerned and based on the available reports. Each plan contained the same elements:

- Prevention is crucial. Each island is to acquire a Youth and Family Centre with parenting support and youth health care. In addition, sufficient opportunities will be created for constructive recreational activities.
- Not all problems can be prevented. Youth care services are to be set up to help families at home. If it is necessary in order to guarantee a child's safety, the child can be temporarily placed elsewhere, whether in a foster home or family-based unit or guest house. The youth protection services, Guardianship Board and Family Supervision Agencies are to be reinforced.
- All those working with parents and children will base their methods on the "Triple P" positive parenting programme.

### **2. Extra personnel**

580. The first thing that had to be done to achieve these goals was to take on extra staff. At the end of 2010, over 30 additional local professionals had been appointed, most of them originating from the Antilles. This made it possible to start providing the most essential forms of care. On Bonaire, youth care services were set up, consisting of a team of five peripatetic welfare workers and a behavioural scientist, besides which a guest house was opened (Kas di Karko), staffed by an eight-strong educational team. Youth protection has been expanded here, with the appointment of two family supervisors and a child and adolescent psychologist, as well as five Guardianship Board staff members.

581. On St Eustatius, a Youth and Family Centre was opened, at which three peripatetic staff members and two youth workers were appointed, and where parenting support is provided in collaboration with the library and child day care centre. Saba was the first island in the Netherlands in the Caribbean to open a Youth and Family Centre, with two peripatetic welfare workers and a youth worker.

### **3. Quality**

582. Besides taking on more personnel, it is also necessary to improve quality. The following steps were taken to achieve this:

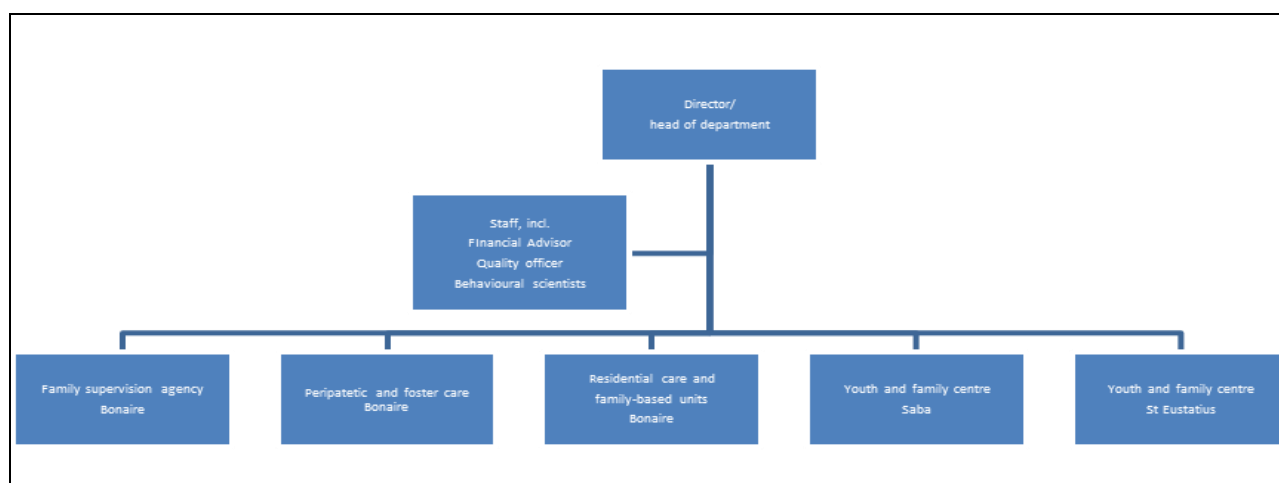
- Grants were allocated to existing independent organisations for recreational activities, to improve the continuity and quality of programmes and facilities; the

organisations concerned were Young Bonaire (on Bonaire) and Child Focus (on Saba);

- Programmes were set up to boost expertise, such as courses in the Triple P programme, youth protection programmes, a boost to labour market prospects for 20 youth workers by encouraging them to combine work with acquiring a qualification in higher professional education, training in methodology provided by the Netherlands Youth Institute;
- The implementation of the YouthlinQ system to support work processes throughout the youth sector on the three islands;
- The assistance of the Youth Care Inspectorate was enlisted.

#### 4. Consolidation and further development from 2011 onwards

583. In 2011 it was decided that the further development of youth care would be coordinated, for the time being, by the Department for the Netherlands in the Caribbean. All its constituent parts will be brought under the responsibility of the Youth Care and Family Supervision Agency for the Netherlands in the Caribbean:



584. This organisation works with certain set basic methodologies (including Triple P) and trained staff. A quality framework has been adopted that the inspectorate can use as a benchmark for assessment. The organisational structure has been based on an organisation and staff establishment report. There is also a registration system that supports work processes, which will also be able to generate policy information in due course.

585. In addition, Bonaire has had a Youth and Family Centre since October 2011, in which four previously independent organisations are merging, and which is going to provide parenting support and youth health care for parents and children up to 19 years of age. This will be an open, easily accessible centre, where people can borrow toys, obtain information about courses, and obtain personal advice. It is geared towards parents, neighbours, young people themselves, and youth care professionals. The Youth and Family Centre, Youth Care Office, and Family Supervision Agency are all housed together in specially converted premises.



## **V. Guardianship Board and youth probation service**

### **1. Guardianship Board**

586. 1 January 2011 only one single director bears responsibility for all three distinct Guardianship Boards on the three islands. Staffing has been brought up to strength with the addition of five full-time equivalents. On April 3 2012 the Decree Guardianship Board concerning the composition and working method of the Guardianship Board for the Netherlands in the Caribbean has come into force. The Guardianship Board on Bonaire functions well and serves as an example for the way this work may be done on the other two islands. The board also serves as the reporting centre for child abuse.

587. Besides the Guardianship Boards' existing activities, youth probation activities have also been carried out on Bonaire since June 2010. The Guardianship Board on Bonaire hired a new member of staff for this purpose. He developed three intervention models in close consultation with the Public Prosecution Service: "HALT" sanctions (administered by the HALT Bureau, which offers young offenders the opportunity to make amends by repairing or paying for damage caused, working, etc., in lieu of prosecution), sanctions imposed by the public prosecutor (officiersmodel) and sanctions imposed by the court (rechtersmodel), according to whether a criminal offence is minor, moderately serious, or serious.

588. Since 15 March 2011 these different types of intervention have also been offered on Saba and St Eustatius. This work includes early intervention, drawing up background reports, providing help and support, setting up projects for the implementation of community service orders, and offering training orders, such as coaching in aggression management. A partnership agreement was concluded by the Guardianship Board, the Public Prosecution Service, the Lieutenant Governor, the police, and the school attendance officer. From the said date onwards, the Guardianship Board and the Probation Service for the Netherlands in the Caribbean have jointly posted a member of staff (1 FTE) to Saba and St Eustatius.

### **2. The Probation Service for the Netherlands in the Caribbean**

589. The Probation Service for the Netherlands in the Caribbean is now staffed to full strength. It is currently functioning on the basis of a Supervisory Board model. Its constitution was modified accordingly. A partnership agreement was concluded between the Probation Service for the Netherlands in the Caribbean and the Dutch Probation Service. The former investigated the scope for electronic surveillance using GPS tracking devices. The Ministry of Security and Justice has now made funds available to put this into practice.

590. Since 15 March 2011, probation activities have also been developed on St Eustatius and Saba. The new BES (Bonaire, St Eustatius and Saba) legislation entered into force for the islands as from 10 October 2010. The islands have their own Criminal Code and Code of Criminal Procedure, besides which a BES Prisons Act has been drafted, which presently deals only with adults.

### **3. Intercountry adoption**

591. To ensure that the provisions on intercountry adoption that apply in the European part of the Netherlands also apply in the Netherlands in the Caribbean, provisions were added to the BES Civil Code by ministerial order. The new provisions (title 12a) assign certain tasks and powers to the Ministry of Justice. For instance, the Minister of Security and Justice is designated the Central Authority for intercountry adoption, for the purposes

of article 6 of the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption.

592. Under title 12a, the Guardianship Board is responsible for drawing up a family report on aspiring adoptive parents and acts as the licensed agency for persons ordinarily resident in Bonaire, St Eustatius or Saba who wish to adopt a child who is ordinarily resident in another State party to the Hague Adoption Convention.

593. Provision is also made for a child who is ordinarily resident in Bonaire, St Eustatius or Saba to be adopted by a married couple or individual ordinarily resident in another State party to the Hague Adoption Convention. The Placement for Adoption (Children of Foreign Nationality) Act that applies to the European part of the Netherlands is in part applicable to Bonaire, St Eustatius and Saba (see chapter 5 of title 12a).

#### **4. Positive Parenting: methodology and campaign**

594. Since there were virtually no youth welfare services in the Caribbean part of the Netherlands, the initial objective was to establish adequate provision, preventive measures and cooperation between the actors involved by the end of 2011. Now that services have been put in place and staff have been recruited, the Youth and Family Centre, the Guardianship Board, the Family Supervision Agency and the Youth Care Office are joining in a collaborative effort to tackle serious problems, including child abuse. The timetable is as follows:

- Public education about positive parenting (2012);
- Designing infrastructure to address child abuse (reporting office and referral/interventions) (first half of 2012);
- Training staff (second half of 2012);
- Public education about child abuse (2013).

595. From 2012 onwards, the Youth and Family Centres will employ youth workers focusing specifically on the 12-18 age group. They will run accessible activities combining recreational and educational functions, and young people themselves will be able to raise issues that are important to them.

596. In order to ensure that the same methodology is used on all three islands, the Triple P (Positive Parenting Programme) is being implemented in the Netherlands in the Caribbean. This is an internationally acclaimed approach to parenting support that has proven highly effective. It is based on positive parenting, and can be used both when advising on parenting issues and when providing help in response to more serious problems. Numerous professionals on the three islands, from fields such as education, welfare, child care, youth protection and the police, have recently been trained in this methodology.

597. In 2012 a campaign on positive parenting was launched on each of the three islands, the aim being to help make the general public aware of the fact that it is perfectly normal to seek advice about parenting, to ensure that they know to whom they can turn if they have questions, and to pass on the basic principles of positive parenting. This campaign is part of the Triple P positive parenting methodology.

#### **5. Public health care**

598. In 2010 and 2011 a preliminary study was made of the state of public health care in the Netherlands in the Caribbean, which identified a number of shortcomings. To improve the public health care system, a partnership was concluded with The Hague Municipal Health Services. Starting in the autumn of 2011, the latter has posted two experienced

members of staff to the islands, one to Bonaire and one to Saba and St Eustatius, to help implement a programme of improvements.

599. As things stand, youth health care is largely confined to baby and toddler clinics; it is to be expanded to include school-based care for young people up to 18 years of age. The emphasis will be on teaching young people about healthy lifestyles and sex-related health issues, and on preventing drug and alcohol abuse.

## **6. General health care**

600. Universal health care insurance was introduced on 1 January 2011, as a result of which the entire population is now insured for basic health care. The care package is largely based on the basic health care provision in the Netherlands, supplemented by elements that are covered in the European part of the Netherlands by the Exceptional Medical Expenses Act. The contributions are deducted, along with income tax, from the wages of all employees earning more than a certain tax-free amount. This means that all children living in the Netherlands in the Caribbean also have access to basic health care, including dental care.

601. Under the mantle of this universal health care insurance, the provision for people with a disability is also to be expanded in the near future, on the basis that they should be able to participate in society. For school-age children, the Special Educational Needs Expertise Centre will play a role in this regard.

## **7. Poverty reduction**

602. Poverty reduction is primarily a responsibility of the island governments. Corresponding tasks have a legal basis with room for additional activities. Legal duties of the island governments in terms of poverty reduction include ensuring or reimbursing the costs of, transportation, nutrition and school uniforms for pupils in primary education (article 5 Primary Education Act BES). In addition to this, the Social Affairs and Employment Department can, if necessary, reimburse school uniforms for pupils in secondary education.

603. The Social Relief Decree BES provides a number of supplementary benefits for (single) parents with one or more children (with a maximum of three children). In other words, the family situation is taken into account when determining the level of assistance benefit. Under the Widows and Orphans Benefits Act BES (*Wet algemene weduwen- en wezenverzekering BES*), orphans and half-orphans who meet certain conditions are eligible for an orphan's pension until they turn 25.

604. In May 2012 the Ministry of Social Affairs and Employment commissioned an exploratory study of poverty in the Netherlands in the Caribbean. A substantial package of measures aimed at tackling poverty was prepared on the basis of the outcome of the survey. One of the new measures is additional funding for childcare on the islands.

## **8. Child labour**

605. In the Labour Law 2000 BES a distinction is made between children (under the age of 15) and young people (youngsters who have reached the age of 15 but not yet that of 18). Child labour is prohibited. For young people there are certain restrictions in place with regard to heavy and or dangerous work and work prior to 07.00 am and 19.00 hours. Hazardous work is specified in the Labour Decree Youth BES.

## **9. Role of the Children's Ombudsman in the Netherlands in the Caribbean**

606. Every year, on 20 November, youth organisations in the Netherlands in the Caribbean organise activities to celebrate Universal Children's Day. Since 2011 the Netherlands has had a special Children's Ombudsman who oversees the observance of the rights of the child (see no. 22 in: The European Part of the Netherlands). The Children's Ombudsman will work closely with the National Ombudsman specifically for the Netherlands in the Caribbean. To this end, the National Ombudsman's investigators will also register, on the Children's Ombudsman's behalf, complaints and warning signs received from children and adults in the Caribbean, and the National Ombudsman's free telephone helpline will also be made available on behalf of the Children's Ombudsman.

607. In addition, the Children's Ombudsman will monitor the situation in the Netherlands in the Caribbean, presenting his findings in a special report (Kinderrechtenmonitor).

## **Part three Aruba**

### **Introduction**

608. This periodic report by Aruba covers the period from 2006 to June 2012. Numerous plans and programmes have been designed and executed during this period to ensure even fuller compliance with the rights, freedoms and obligations enshrined in the Convention on the Rights of the Child. At present many more projects are in different stages of the planning process and will come to fruition in the years ahead. Efforts have also been made to introduce and modernise Aruban legislation, where necessary, in conformity with the Convention. This report summarises the main developments during the reporting period.

609. The initial report and previous reports were written by the Aruban Committee on the Rights of the Child that was established on 12 April 2001. The members of this committee represent both governmental and non-governmental organisations. In view of organisational challenges that the committee faced and the deadlines that had to be met, a different approach was taken in preparing this report. The present report was prepared by the government of Aruba, with non-governmental organisations contributing significantly by providing relevant information.

## **I. General measures of implementation**

### **A. Measures taken to ensure compliance of Aruban law and policy with the provisions of the Convention**

610. The following changes have been made to Aruban legislation:

- In line with the recommendation in paragraph 13 of the Committee's Concluding observations, Parliament adopted the Compulsory Education Act in December 2011. It will enter into force in December 2012. (More in chapter VII);
- Recently, Parliament adopted amendments to the Criminal Code, notably including changes to the system of juvenile criminal law. (More in chapter VIII);
- Nursing mothers have been granted the legal right to breastfeed their child at work during working hours. This right is laid down in the Civil Code of Aruba and in the Civil Service Act. (More in chapter VI).

## **B. Existing or planned mechanisms at national or local level for coordinating policies relating to children and monitoring implementation of the Convention**

611. The Committee encourages the State party to adopt comprehensive plans of action for the implementation of the Convention in all parts of the State party, based on a vision of children's rights and empowerment and taking into account the outcome document of the special session of the General Assembly "A World Fit for Children" and its mid-term review in 2007 (recommendation 15).

612. The Ministers of Justice & Education, of Economic Affairs, Social Affairs & Culture and of Health & Sports have initiated the process of drafting a comprehensive policy plan for Aruban youth. This initiative was taken to comply with the Convention and with policy priorities set by the government in 2009. The results of different research projects also revealed the need for a more integrated approach to youth affairs. A coordinating committee and working groups were established by ministerial order in January 2012. The members of the coordinating committee consist of representatives of the three Ministers and an expert in the field of youth policy. Their role is to report on a regular basis to the Ministers on the progress made by the working groups and eventually to present a final report. Furthermore, this committee is responsible for all tasks that are not reserved for one of the working groups. Each working group consists of the head of department, a person from the same organisation appointed by the head of department, the director of the umbrella organisation for youth welfare work (ATHA) or his representative, and one or more experts in the field of youth policy. The working groups have been assigned the task of making a compilation of all plans, programmes and projects that have been worked on since January 2001 to comply with the Convention. Subsequently, the working groups will analyse the material and determine what can be used in drafting the National Youth Action Plan. Five areas have been identified as essential for the development of the child: the individual child, the family setting, school, friendships and children's leisure time and the wider community. Problems in any of these areas may be detrimental to the child's development. The National Youth Action Plan will focus on these five areas.

613. In April 2012 the final report on the "Analysis of the Situation of Children, Adolescents and Women" was presented to the Minister of Social Affairs. This UNICEF-sponsored research project had two main objectives. Firstly, research was conducted to deepen understanding of the progress Aruba has made and the challenges it has encountered in promoting children's and women's rights. Secondly, the project led to recommendations for social action and public policy in the medium and long term to improve opportunities for the Aruban population. The research was "human rights-based", meaning that the current situation of children, adolescents and women was assessed in the light of relevant international human rights instruments such as the CRC and CEDAW. The researchers collected information from written sources and conducted interviews with representatives of government agencies and civil society. Based on this information, a thorough analysis was made of the state of the Aruban child and adolescent in the fields of health, education, special protection and participation. Using compliance indicators, the report identifies rights that have been satisfactorily safeguarded as well as areas in which Aruba could improve its compliance with the Convention. Several general recommendations were made in the report to guarantee compliance with the Convention. First, a system of comprehensive protection of children and adolescents must be put in place. Second, a specific code for childhood and adolescence must be drafted, and thirdly, a system of juvenile criminal law is needed. There are, however, preconditions that need to be met to ensure the realisation of these three projects. It is of paramount importance that all government agencies are permanently involved in implementing the Convention. In other words, they must possess an in-depth knowledge of the Convention and act to eliminate all

laws and regulations that are contrary to the rights of the child. Interdepartmental cooperation will facilitate collaboration at agency level. Having the agencies work more closely together will be conducive to forming strong, effective alliances with civil society to bring about the necessary changes in society. The findings of this UNICEF report will be used in drafting the National Youth Action Plan.

#### **Independent human rights institute**

614. The Committee recommends the swift passage of the children's ombudsman legislation in the Netherlands and the creation of a human rights institution or a children's ombudsman in the Netherlands Antilles and in Aruba (recommendation 17).

615. Pursuant to recommendations 9 and 17, the government of Aruba made a commitment during the most recent Universal Periodic Review to create in the near future an independent human rights institute similar to the one in the Netherlands. The institute will be based on the Paris Principles and will provide information, education and protection of human rights to the Aruban community. It will also be responsible for monitoring compliance with the Convention. The government will seek cooperation within the Kingdom in setting up the human rights institute.

### **C. Measures taken or envisaged to make the Convention's principles and provisions widely known to adults and children alike**

616. In the current reporting period various organisations have taken several initiatives to educate the public about the importance of the Convention:

- The Minister of Social Affairs sponsored the development and execution of a human rights and social work curriculum for all staff at the Department of Social Affairs in 2006-2008. Staffs were educated about the importance of the international human rights (including children's rights) instruments for their work.
- As part of the process of reforming the curriculum at the Faculty of Law of the University of Aruba a course in human rights was added to the Master's programme in 2009.
- In 2009 the University of Aruba launched a Bachelor's programme in Social Work and Development. All future social workers will be educated about human rights.
- The Youth Parliament of Aruba organised a social activity for the children living at the Imeldahof children's home in 2007. At the end of the activity the children received information on the rights of the child.
- A major step forward was the translation of the Convention into Papiamentu in 2006, thus making the Convention available in the mother tongue of the majority of the population. The youth organisation ATHA sponsored the translation.
- The training of cadets at the Police Training Institute includes education about the significance of human rights for the work of the Aruban police force. Human rights define the standard of conduct police officers should observe when performing their duties.
- Circle K Kiwanis, the University of Aruba chapter of Kiwanis International, and the Kiwanis Builders Club of the Juliana School organised a fundraising and awareness-raising activity on 20 November 2011 for local NGOs that work with children.
- In 2011 a doctoral thesis was published on juvenile crime in Aruba and the Convention on the Rights of the Child.

- In the first half of 2012 the University of Aruba hosted a symposium on the importance of human rights for the community.
- The Foreign Relations Department gave a workshop on the Convention on the Rights of the Child for the Youth Parliament of Aruba in 2012.
- The government of Aruba has commissioned Aruba's Human Rights Committee to develop a national human rights action plan. The drafting process is now in its initial stage.
- The Child Helpline (Telefon pa Hubentud) presented a translated version of the Convention to all schools and other youth organisations at a special event.
- The first public conference on child abuse and neglect was held in November 2010 and will be repeated biennially.

#### **D. Measures taken to make the reports widely available to the public**

617. At present the reports of the Committee, including its concluding observations, are published on [www.derechonandimucha.org](http://www.derechonandimucha.org) and on the website of the Aruban Foreign Relations Department. Aruba's Human Rights Committee will consider this issue in drawing up the national human rights plan.

## **II. Definition of the word “child”**

618. In the past several years there have been no changes in the definition of “a child” under Aruban law. The definition given in the initial report therefore remains valid for the present reporting period.

## **III. General principles**

### **Non-discrimination**

619. Aruba remains committed to this fundamental principle, which is enshrined in its Constitution and international human rights instruments. The principle is at the heart of the country's legislation and policy. Aruba has compulsory health insurance for everyone who is registered in the Population Register, irrespective of origin or place of birth. In December 2011, Parliament approved the Compulsory Education Act, which applies to all children aged 5 to 17. This law guarantees access to education to all children, irrespective of their legal status.

620. The Your Neighbourhood Project (BoBario) includes a package of programmes and projects to improve the social climate in Aruba's neighbourhoods. It also aims to foster local social cohesion by bringing all residents together, without any distinction, to play an active role in the upkeep of their own community.

## **IV. Civil rights and freedoms**

### **1. General**

621. As regards the civil rights and freedoms of children, the Government remains committed to Aruba's Constitution and the international human rights instruments. Individuals, including children, whose rights are violated may seek redress from

independent and impartial courts. During this reporting period there have not been any major developments in the field of rights and freedoms.

## 2. Corporal punishment

622. The Committee recommends that the State party prohibit corporal punishment by law and enforce the prohibition in all settings, including in the family, the schools and out of home placements (recommendation 37).

623. Aruba's Criminal Code prohibits child abuse. Corporal punishment in schools is explicitly prohibited by law. However, parental "smacking" or "slapping" is not specifically forbidden by law. The government is currently considering this recommendation and looking into the possibility of incorporating a ban in the Civil Code. This does not mean that corporal punishment is a common practice in Aruba. Moreover, a great deal of information is being provided on this topic by the Social Affairs Department and various (government-subsidised) NGOs in order to prevent ill-treatment or corporal punishment within families.

## V. Family environment and alternative forms of care

### 1. Adoption

624. The Committee recommends that the State party take all necessary measures to prevent cases of illegal adoption, raise awareness about the rights of the child from this respect as well, and eliminate "weak" adoptions in accordance with the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The Committee further recommends that the 1993 Hague Convention be applied in Aruba and the Netherlands Antilles (recommendation 46).

625. Aruba is not yet party to the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. However, Aruba is party to the European Convention on the Adoption of Children of 2008. It was ratified for Aruba and entered into force on 1 October 2012.

### 2. Professional training, support and child abuse

626. The Committee urges the State party to ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children (recommendation 48).

627. Since 2000 the 24-month basic training at the police academy has included several training modules on dealing with victims. Specifically, in the module entitled "Legal Protection" (Rechtsbescherming), participants are taught about the statutory provisions and police regulations on victim assistance, the treatment of victims, victims' rights (for example the right to relevant information and the right to seek financial compensation) and the process of referral to victim support. In the 24-month follow-up course at the police academy, participants — while working in the police force — take several modules in which more attention is given to victim assistance. Starting in 2012, participants will be informed more specifically about domestic violence in the modules "Crime" (*Criminaliteit*) and "Public order and social care" (*Openbare orde en maatschappelijke zorg*). These modules will be accompanied by interactive lectures by the Bureau Sostene Mi, the Respeta Mi Foundation, the Child Helpline and the Social Affairs Department.

628. In addition to this commitment by the government and non-profit organisations to raising awareness of sexual abuse and promoting early reporting of abuse, the unit of the



Aruban police force that specialises in youth and sexual offences plays a significant role in the fight against child abuse. Reports concerning minors go directly to this specialised police unit, which promptly investigates any report of abuse in direct collaboration with the public prosecutor. The staff of this unit has taken several courses on sexual offences and criminal law, including one on methods of questioning people with intellectual disabilities. In May 2011 the unit obtained once again its certification for questioning minors and victims of sexual abuse.

629. The Social Affairs Department focuses on parenting support, family coaching and family therapy. A subdivision has been set up for family therapy within the Life and Family Problems Division.

630. The Respeta Mi Foundation has set up a website with information in Papiamentu on how to recognise and deal with child abuse. The website is designed for both children and adults (parents, guardians, teachers, activity leaders, etc.).

631. The Child Helpline also provides a platform for children between the ages of 8 and 18 to report abuse. Children and young adults can call the organisation and speak to an adult about possible abuse or ill treatment within their family and/or community. In a report drawn up in 2010, the foundation provided statistics on the number of phone calls made to the hotline during the year 2009 and on the subject of these calls. Of the 1670 calls made to the hotline in 2009, 77 concerned violence and other problems in the home.

632. The first National Congress on the Prevention of Child Abuse and Neglect was held to coincide with Universal Children's Day in 2010. Two days were devoted to presentations by local and international experts to both professionals working with children and youth and the general public. The presentations included information on identifying issues surrounding child abuse, statistics, information for parents and caregivers, and best practices. Conclusions and action points from the congress were documented in a report that was subsequently distributed to all key stakeholders, and have formed the basis for a number of the initiatives mentioned in this report specifically related to the prevention of child abuse and neglect. The second congress will be held in November 2012.

## **VI. Basic health and welfare**

### **Article 23**

#### **Disabled children**

633. The Committee recommends that the State party introduce legislation to protect disabled children, organise awareness-raising campaigns, provide training, and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol (from recommendation 50).

634. The Aruba Autism Foundation (Fundacion Autismo Aruba, FAA) was officially founded in 2005 to offer assistance to children with autism and their parents and caregivers. The organisation aims to promote the full participation of people in society with autism. It has a small centre where the public can obtain information and find literature on autism. It also organises campaigns to raise awareness and offers courses in autism to parents and caregivers, prepared in close cooperation with the Dutch Autism Society. In addition, presentations on the subject are given on demand, and advocacy is done for specialised services for people with autism. The Aruba Autism Foundation hosted the country's First International Autism Symposium in 2010, at which experts from Aruba and abroad shared ideas and experiences regarding all aspects of autism. The Sinami Paso a Paso Aruba Foundation (Teach Me Step by Step, FSPP) was founded in 2009 to offer guidance to

disabled people and their caregivers. The foundation offers afterschool programmes, psychological care, speech therapy, etc. People with any disability may request help at the foundation's centre.

635. In 2007 several Aruban NGOs created a national coalition for people with disabilities, the Plataforma Derecho di Persona cu Limitacion (PDPLA). It consists of the following organisations: the umbrella organisation for youth welfare work (ATHA), the Aruba Foundation for the Visually Impaired (FAVI), the Mi Por Foundation, the Aruba Foundation for the Mentally Disabled (SVGA), the centre Ambiente Nobo, the Aruba Autism Foundation, the Sonrisa after-school childcare centre, the Aruba Foundation for the Disabled (FUNARI), the Ambiente Feliz Foundation and the Foundation for the Hearing Impaired (FEPO). Two disabled people also take part in the coalition. The PDPLA was established with the objectives of raising awareness of the rights of people with disabilities, sharing ideas, reviewing the current state of affairs in Aruba in the light of the Convention on the Rights of Persons with Disabilities, making recommendations to the government, and organising programmes to benefit disabled persons on the island. In pursuit of its objectives, the coalition has been holding monthly meetings with the Department of Social Affairs since 2009. At these meetings the Convention on the Rights of Persons with Disabilities and its implications for public policy are extensively discussed. In 2011 the coalition met with the Minister of Social Affairs to officially introduce the member organisations and to give information on the work each of them is doing for the disabled. The Minister was asked for a ministerial order giving the coalition official recognition. The Department of Social Affairs is providing legal assistance to this end and to prepare an agreement on cooperation between the coalition and the government. Furthermore, on 3 December 2011 the coalition organised a celebration of the International Day of People with Disability to raise awareness and promote understanding of disabled persons and their rights in the Aruban community. The activities that the coalition organises are in addition to the numerous activities that the NGOs organise separately. Now that the coalition has been created and a partnership with the Department of Social Affairs is in place, a comprehensive plan for disabled children and youth can be further elaborated and implemented.

#### **Forms of assistance**

636. The Department of Social Affairs provides several forms of assistance to people living with disabilities. These are laid down in three different legal instruments. Firstly, under the Social Care Act every individual, including those with a disability, has the right to request assistance when searching for adequate and affordable housing and applying for financial aid. In 2010 the Minister of Social Affairs changed the structure of the Department of Social Affairs by introducing new policy that identifies several vulnerable social groups. People with special needs are one of these groups. In the light of this policy a special section for the disabled was set up within the department. Thus their needs are now addressed in a more effective and efficient manner. Secondly, persons aged 16 or more living with a physical or intellectual disability are entitled to a monthly disability allowance of AWG 850 (Aruban florins). This allowance is based on the Social Assistance Decree. Legislative changes are currently being made to allow physically or intellectually disabled people to receive financial assistance from birth, thus no longer requiring them to wait until the age of 16. Thirdly, under the Act for Institutional Grants, the Minister of Social Affairs grants considerable sums to organisations for disabled people. In 2011 a total of almost AWG 7.2 million was allocated to SVGA, FEPO, FUNARI, FAVI, Sonrisa and Ambiente Feliz for salaries and operational costs. Organisations may also request grants for individual projects. Civil society bears most of the responsibility for caring for people with disabilities, but the system of care would not be able to function adequately without substantial assistance from government. In 2011 SVGA started building with public funds a

specialised care facility for people with multiple disabilities, where care will be offered 24 hours a day. This project will be completed in 2013.

## **Article 24**

### **Health and health care**

637. The Committee recommends that the State party take appropriate measures to make sure that all children in its territory have access to basic health (recommendation 52).

#### **1. Undocumented children**

638. The law states unambiguously that all persons duly registered in the Population Register are entitled to publicly provided medical coverage. Therefore, undocumented persons do not fall within the ambit of the law. If the parents of a newborn can prove that they are in the process of obtaining a legal residence permit, a temporary health insurance pass will be issued for the infant by the General Health Insurance Agency. The parents will be given one year to obtain a residence permit for the child, and if necessary an extension of one year will be granted. If an undocumented person, whether an adult or a child, is in need of medical care, he or she will receive the necessary assistance. Given that such people have no public or private medical coverage, the costs incurred are borne by the medical institution and thus indirectly by the government. While access to basic health care is not guaranteed by law, in practice undocumented children receive medical treatment.

#### **2. Sexual and reproductive health: teenage pregnancy**

639. The Committee recommends that State party undertake efforts to strengthen ... sexual and reproductive health education ... with a view to reducing the incidence of teenage pregnancies ... in Aruba and the Netherlands Antilles (recommendation 56).

640. As mentioned in the previous periodic report, the network organisation CEMBRAH is an alliance formed by several organisations to tackle the phenomenon of teenage pregnancy in Aruba. At present the members of the alliance are: the White-Yellow Cross, Planned Parenthood Aruba, the Child Helpline, Horacio Oduber Hospital, the child protection services, the Social Affairs Department, Casa Cuna Progreso, the Pa Nos Muchanan Foundation, the Guide Me Foundation [Bureau Sostenemi], the Aruba YMCA, the junior secondary vocational schools in Oranjestad and San Nicolas, and the youth welfare work organisation ATHA. The Committee's tasks include preventing teenage pregnancy and providing guidance and help for teenage mothers. CEMBRAH also aims to raise awareness of sexually transmitted diseases among young people on the island, and provides information to the Aruban community on teenage pregnancy and its consequences. CEMBRAH has approached ATHA to conduct two research projects to deepen society's understanding of teenage pregnancy. The urgency of collecting data became clearer after professionals witnessed an increase in the number of teenage pregnancies and a decrease in the age of teenage mothers. One of the projects examined teenage mothers' education while the other dealt with support systems for teenage parents.

641. In 2010 CEMBRAH organised a large international conference for professionals who encounter teenage pregnancy directly or indirectly in their work. The aim of the conference was to inform these professionals about developments concerning teenage pregnancy and its social, economic, financial and education implications. It also gave professionals an opportunity to share their own findings on the subject.

642. Over the past several years Planned Parenthood Aruba, in collaboration with other organisations, has been organising an "I Love My Body" campaign during the Carnival season. The campaign's main purpose is to teach young people the importance of taking

good care of and respecting their bodies. They are urged to use contraceptives to prevent pregnancy and disease if they choose to be sexually active. An integral part of the campaign is the free distribution of contraceptives.

643. From 2012 the Minister of Social Affairs will allocate AWG 100,000 a year to the White-Yellow Cross for a project involving the use of teenage mother life-coaches. In order to significantly reduce the number of teenage pregnancies, government and civil society have made a commitment to increase the financial and other resources devoted to combating youth pregnancy. This project, which takes a more personal approach, will complement rather than replace existing programmes. The coaches will provide guidance for young mothers and their parents in caring for the newborn. The aim is to provide in-depth guidance to teenage mothers in order to prevent future underage pregnancies, a common phenomenon among Aruban teenagers. The coach will also assist the young mother in planning her future, including returning to school whenever possible. Therefore the coach will be active in the hospital, home and school, working closely with all organisations that encounter teenage pregnancy in any way in their work. Coaches will also visit businesses and other organisations to offer information on teenage pregnancy in the hopes that parents will in turn share this information with their teenage children at home. Part of the grant will go towards continuing education of coaches, thus making the most recent insights available in the battle against teenage pregnancies. The Social Affairs Department will hold a meeting every three months with each teenage mother consultant to assess the statistics on teenage pregnancies in the previous months. If the strategies used to reduce the numbers are not deemed sufficiently effective, they will be modified.

### **3. Drug and alcohol prevention**

644. The Committee recommends that the State party take all necessary measures to prevent drug and alcohol abuse (recommendation 58).

645. The Minister of Health and Sports has commissioned the University of Aruba to conduct research with the aim of deepening understanding of alcohol and drug use among secondary school pupils. Between August 2011 and February 2012 all secondary day schools were approached and pupils were encouraged to fill out a questionnaire. The results of this research were publicly presented at the first Dutch Caribbean Congress on Drug Abuse, an international conference hosted by the Minister of Health and Sports that took place in Aruba in September 2012. The results of the survey will be used to draft policies to effectively combat alcohol and drug abuse among Aruban young people.

### **4. Breastfeeding**

646. The Committee recommends that the State party enhance its efforts to promote exclusive breastfeeding practices and comply with the International Code of Marketing of Breast-milk Substitutes (recommendation 60).

647. In 2002 the Aruban Pro Lechi Mama Foundation (“Pro Mother’s Milk”, PLM) was officially founded. In the preceding years, a need was felt in the community for an organisation with promoting breastfeeding as its primary task. PLM’s main objective is accordingly to inform and educate every person who would like to learn more about breastfeeding and mother’s milk. Mothers who wish to breastfeed their children can request support and guidance from the foundation. Information and education is also available for health professionals in the field of child care and for the community at large. PLM uses various avenues to carry out its work. Over the years it has developed a range of written resources, often in cooperation with others. There is for example a brochure for employers and employees on the breastfeeding in the workplace. The foundation also has airtime on local television to provide information on a weekly basis. Once a quarter a “From Mother to Mother” (Di Mama pa Mama) meeting is held where mothers share experiences and

ideas. PLM has also opened a helpline to answer questions and give guidance. It receives its funding primarily from a sponsor in the business community, but the Minister of Social Affairs supports the foundation financially by for example providing housing for its office in the Centre for Women's Development (CEDEHM) building, and the Minister of Public Health provides professional staff such as a lactation consultant.

648. The Ministers of Public Health and Social Affairs have taken the initiative to bring together all the organisations and professionals in the field of mother and infant care to create an alliance, the Aruba Breast Milk Coalition (Plataforma Lech'i Pecho Aruba), which was founded and started operations in 2011. The coalition has drafted a comprehensive National Breast Milk Plan for 2011-2015, whose main goal is to devise a strategy to improve the quality of service that health professionals and organisations provide to nursing mothers.

649. The Aruba Civil Code was amended in 2007 to include the right to breastfeed; PLM played a key advocacy role in bringing about this change. Article 1614 cb of the Civil Code of Aruba now protects breastfeeding women working in the private sector. A bill was introduced in 2008 to amend the Country Ordinance on Central and Local Government Personnel to grant this right to mothers in the public sector as well. The legal provisions for the two sectors are basically identical. Article 1614 cb of the Civil Code reads as follows:

650. The female employee (or public servant or person of equal status) who is breastfeeding a child, provided that she has notified the employer, has the right, during the first nine months of the child's infancy, to interrupt work in order to breastfeed her child or to express breast milk in a peaceful and secluded place. The employer must allow her to breastfeed or to express breast milk and if possible provide her with an adequate room with a door that can be closed. (para. 1) The interruptions mentioned in paragraph 1 may take place for as long and as often as necessary, provided that the total amount of time does not exceed one-fourth of the total working hours. The timing and length of the interruptions will be determined by the female employee after consulting the employer. (para. 2) The period in which work is interrupted as mentioned in this article is to be considered working time when applying this law and secondary legislation. The female employee retains the right to her salary. (para. 3) Any legal provision that is applied contrary to the preceding paragraphs to the detriment of the female employee is null and void.

## **Articles 26 and 18, paragraph 2**

### **Social security and youth care**

651. Aruba, like the Netherlands, does not grant a child an independent right to social security. Children benefit from the Aruban social security system through their parents. For example, where necessary, Aruba provides parents with financial support for their children. The government has taken several measures to improve children's quality of life. The monthly social security payments have been increased by 25%. In addition, parents who receive social security are now entitled to receive AWG 200 for every child attending school. These parents also receive financial assistance from the government to cover educational costs.

## **Article 18, paragraph 3**

### **Childcare services**

652. Legislation on preschools and on safeguards for children attending privately-owned preschools or crèches will be implemented soon.

## **VII. Education, leisure and cultural activities**

### **Compulsory Education Act**

653. The Committee reiterates its recommendation ... that the State party expedite the adoption of the Compulsory Education Act in Aruba (recommendation 13; see also no. 66).

654. In December 2011, Parliament approved the Compulsory Education Act. Education is now compulsory for all children aged 5 to 17. The underlying principle is that in order for a child to be properly prepared for the individual and social responsibilities of adulthood, he or she needs to have attended approximately two years of kindergarten followed by six years of primary education and at least three years of secondary education. The Compulsory Education Act will enter into force in December 2012. The government will implement it in phases.

655. The implementation plan developed by the government seeks a balanced and responsible introduction of the law. The plan entails:

- Establishing a reporting centre where the unauthorised absence of pupils must be reported;
- Appointing government officials to ensure compliance with the Compulsory Education Act;
- Developing an electronic system connecting the relevant agencies;
- Providing information on the introduction of compulsory education to all stakeholders.

## **VIII. Special protection measures**

### **Sexual exploitation and trafficking**

656. The Committee recommends that the State party introduce measures to protect children from sexual exploitation and prevent trafficking, to train professionals in the field and to raise awareness among children, parents and the general public (from recommendation 74).

### **Legal framework and policies**

657. As mentioned in the previous periodic report on Aruba, the Aruban Criminal Code was amended in May 2006 to comply with several international agreements that had become legally binding on Aruba in 2006 and 2007. The amendments to the Criminal Code made people smuggling a criminal offence and enlarged the scope of the provision on human trafficking to include forced labour, debt bondage and organ trafficking. The Criminal Code thus specifically prohibits human trafficking (including sexual exploitation, labour exploitation and organ removal) and people smuggling.

658. In February 2009 a Memorandum of Understanding on Human Trafficking, People Smuggling and Illegal Immigration was signed by the Ministers of Justice of Aruba, the Netherlands Antilles and the Netherlands.

659. The Minister of Justice and Education has made it possible for victims of human trafficking to receive free legal assistance, even though the law has not been changed as yet. The minister responsible for immigration has made provision in immigration policy to allow victims of human trafficking to change their residence permit or to get a temporary permit for the period of the criminal investigation.

### **Taskforce**

660. An interdepartmental and interdisciplinary working group on human trafficking and people smuggling was established in early 2007. This taskforce has taken several initiatives. Its objectives are:

- To draw up multidisciplinary policy proposals on preventing and combating human trafficking and people smuggling;
- To launch an awareness-raising campaign in and outside government.

661. In April 2010 a training course was organised in Aruba for members of the taskforce, the Serious Crimes Unit of the Aruba police force (KPA) and staff of the Prostitution Inspection Team of the Aliens Policy, Admission and Integration Department (DIMAS). The purpose of the course was to enhance the expertise of victim support professionals, members of the legal profession and the police.

662. The government allocated funds to host a three-day seminar on child trafficking in October 2011, organised by the US State Department and the Aruban human trafficking taskforce. The child protection service took part in the seminar and joined the taskforce in 2012.

### **Administration of juvenile justice**

663. The Committee recommends that the State party amend its system of juvenile criminal law (from recommendation 78).

664. The Aruban Criminal Code was recently amended, placing the juvenile system in a separate section of the Code. The amended Code introduced new penalties for young offenders. Now the court can order a young offender to be placed in a special institution instead of imposing a fine or custodial sentence. It is up to the court to decide what measures are necessary for each individual. The most severe sentence that can be handed down is detention for a period of 24 months to four years. This measure is reserved for 16- and 17-year-olds.

## **Part four Curaçao**

### **Introduction**

665. The present report covers the period from 2008 to 2011 and refers to the island of Curaçao. The report is submitted in compliance with article 44, paragraph 1 (b) of the Convention on the Rights of the Child, which entered into force on 10 October 2010 for the Kingdom of the Netherlands in respect of Curaçao. The treaty-specific guidelines regarding the form and content of periodic reports (CRC/C/58/Rev.2) have been observed as far as possible. This report provides an update on issues addressed in the Second Report (CRC/C/NLD/3) of the former Netherlands Antilles and responds to the concluding observations of the Committee on the Rights of the Child (CRC/C/NLD/CO/3) of 27 March 2009. Subjects which were dealt with in the previous reports and which remained unchanged in the period covered by this report have not been commented upon.

666. A total of 38 bodies and organisations were approached by the Ministry of Social Development, Labour and Welfare to help in the drafting of this report, for which the Minister of General Affairs bears ultimate responsibility. They included eight of the nine government ministries, plus other government bodies and NGOs.

## I. General measures of implementation

### 1. Reservations and declarations

667. The reservation in respect of article 26 remains in force. The guiding principle of current social security legislation in Curaçao is that children's right to social security is derived from the right of their parents.

668. The reservation in respect of article 37 remains in force. The Curaçao Criminal Code does however include a separate title pertaining to young persons.<sup>37</sup> As a result, the application of adult criminal law to children is subject to strict conditions. A court may elect to apply adult criminal law instead juvenile criminal law only on the basis of cumulative criteria specified by law, these being the gravity of the offence, the character of the offender and the circumstances in which the crime was committed.<sup>38</sup> In all other cases, juvenile criminal law must be applied. In any event, article 1: 158, paragraph 2 of the Criminal Code explicitly states that 16- and 17-year-olds may not be sentenced to life imprisonment.

669. Children under the age of 18 will not in principle be placed on a prison wing intended for adults. This occurs only if there is a lack of capacity at the *Gouvernement Opvoedingsgesticht* juvenile detention centre, where children under the age of 18 are generally required to serve their sentence. In the event of a shortage of capacity, older youths may be detained on the young adults' section (JOVO) of the men's wing of the prison, pending placement at the *Opvoedingsgesticht*.

670. Even if children are found not to be suitable for placement at the *Gouvernement Opvoedingsgesticht*, because for example they are unmanageable and must therefore sent to the regular facility, they will be placed on the prison's Forensic Observation and Counselling Wing (FOBA). Here, prisoners are subject to extra observation and a strict regime, and they receive extra care and counselling. This is therefore the safest environment for young offenders within the prison.

671. The reservation in respect of article 40 remains in force. However, in order to protect the rights of young people, the Public Prosecution Service (OM) has elected to introduce an administrative rule that, in the event that an alternative sanction of more than 20 hours is imposed by a public prosecutor rather than a court, in the context of a settlement penalty and/or a provisional decision not to prosecute, legal counsel must automatically be appointed.

### 2. Legislation (and other measures)

672. In recent years, the government has taken several measures to harmonise the legislation and policies of Curaçao with the provisions of the Convention. This has resulted in the review and amendment of several items of legislation:

- Amendment of Book 1 of the Civil Code by means of the Country Ordinance revising the law on names, which entered into force on 9 October 2010.<sup>39</sup> The Country Ordinance made it possible for parents to choose the surname of either the mother or the father for their child. This brings to an end the discrimination against the mother's surname, given the fact that as the law stood prior to the amendment, a

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<sup>37</sup> Title X, Criminal Code: Special provisions pertaining to young persons.

<sup>38</sup> Article 1:158, paragraph 1, Criminal Code.

<sup>39</sup> Country Ordinance amending Book 1 of the Civil Code; Official Bulletin 2010, no. 29.



child's surname was primarily that of the father, and otherwise that of the mother. More information on the Country Ordinance can be found in IV, article 7.

- Amendment of Book 1 of the Civil Code by means of the Country Ordinance on Judicial Declarations of Paternity, which entered into force on 1 January 2012.<sup>40</sup> Judicial declaration of paternity is a way for a court to declare the paternity of a child, with all the legal consequences this entails, in cases where children are born out of wedlock, or where the father does not wish to acknowledge paternity. More information on the Country Ordinance can be found in IV, article 7.
- Amendment of Book 1 of the Civil Code by means of the Country Ordinance on Joint Responsibility.<sup>41</sup> This gives the child the right to contact with its parents and those with whom it has a close personal relationship. More information on this Country Ordinance can be found in III, article 3 and V, article 9.
- Amendment of Book 1 of the Civil Code by means of the Country Ordinance concerning the introduction of a Central Registration and Referral Centre for Child Abuse (*Centraal Meldpunt Kindermishandeling*, CMK).<sup>42</sup>
- The new Curaçao Criminal Code (*Wetboek van Strafrecht, WvSr*), which entered into force on 15 November 2011, contains special provisions concerning young persons, human trafficking and people smuggling.<sup>43</sup> More information on the Criminal Code can be found in III and the following sections.
- In terms of education, a School Attendance Brigade (*Leerplichtbrigade*) has been established for the enforcement of the amended Country Ordinance on Compulsory Education.<sup>44</sup> More information on this Country Ordinance can be found in VII, article 29.
- On 22 November 2008 the Country Ordinance on Foundation Based Education entered into force, shifting the focus of both primary and early secondary education towards the child and his/her development.<sup>45</sup> More information can be found in VII, article 28.

### 3. Publication and distribution of new legislation

673. The Curaçao Civil Code and amendments to it were published in the Curaçaoese Courant. A public information campaign was also conducted when the amendments were introduced. The campaign focused in particular on Book 1 “Law of Persons and Family Law”, given the subject and its social implications. This part of the Civil Code was also published separately in book form, and is available in local bookstores. An online version of the Civil Code is also available.

674. A special newspaper was published in the local language Papiamentu and Dutch to inform the public about the amendments to the Criminal Code and their implications. The issues highlighted included juvenile law and the criminal offences of human trafficking and people smuggling. An information film on this last subject was also shown on national

<sup>40</sup> Country Ordinance amending Book 1 of the Civil Code; Official Bulletin 2011, no. 56

<sup>41</sup> Country Ordinance amending Book 1 of the Civil Code; Official Bulletin 2011, no. 57.

<sup>42</sup> Country Ordinance amending Book 1 of the Civil Code; Official Bulletin 2011, no. 58.

<sup>43</sup> Country Ordinance establishing a new Criminal Code; Official Bulletin 2011, no. 48.

<sup>44</sup> Country Ordinance containing provisions regulating compulsory education; Official Bulletin 2007, no. 43.

<sup>45</sup> Country Ordinance containing regulations pertaining to Foundation Based Education, Official Bulletin 2008, no. 84.

television. The new Criminal Code is available online, has been published in the Curaçaose Courant and can be obtained from the University of Curaçao.

#### 4. International treaties

675. Over the past few years several human rights instruments have been ratified for Curaçao, or ratification for Curaçao has been considered by the government. These are:

- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (New York, 25 May 2000) entered into force throughout the Kingdom of the Netherlands on 24 October 2009. The text was published in Dutch in the *Treaty Series* 2001, no. 131. The Protocol has applied to Curaçao since 10 October 2010, and the initial report of the Kingdom of the Netherlands was submitted to the Committee on 30 December 2011.
- Following the introduction of the new Criminal Code in Curaçao, the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (New York, 25 May 2000) will follow for Curaçao.
- The government is currently considering the general implications of the Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol (OPCRPD) to the Convention, and their implications for existing legislation.
- The government is currently considering whether to become party to the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and the Protocol on the Law Applicable to Maintenance Obligations, which was concluded in The Hague on 23 November 2007.
- The government has indicated that it wishes the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights to apply to Curaçao. It must be ratified by the Kingdom.
- The government has also indicated that it wishes for the European Convention on the Adoption of Children (revised, Strasbourg, 27 November 2008) to apply to Curaçao. The instrument of acceptance of the Kingdom of the Netherlands has already been submitted to the depositary state and the Convention came into force in Curaçao on 1 October 2012.

#### 5. Existing or planned mechanisms at national level for coordinating policies relating to children and monitoring implementation of the Convention

676. The Ministry of Social Development, Labour and Welfare has statutory responsibility for monitoring and enforcing compliance with international agreements, national policy and legislation on the development of children and young people.<sup>46</sup> The Family and Youth sector of the Ministry is partly responsible for implementing the CRC.

677. The policy of the Ministry of Social Development, Labour and Welfare is developed interactively, taking account of the needs of those implementing the policy, and those in the field. Fixed evaluation points are scheduled to establish whether the policy is actually having the intended effect. If this is found not to be the case, it is adjusted.

678. Youth policy in Curaçao is based on the provisions of the CRC and includes elements that monitor compliance with the Convention. Compliance monitoring and

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<sup>46</sup> Country Decree implementing articles 13, 15, 16 and 17 of the Country Ordinance on the Organisation of National Government, Official Bulletin 2002, no. 9.

enforcement have been incorporated into the government's youth policy and are carried out by the Ministry's Enforcement and Inspection department. The Ministry subsidises civil society organisations that are engaged in youth care, youth work and social care, which also implement part of the government's youth policy.

679. The findings of a survey among young people, the "Youth Monitor", are used to develop and adjust youth policy. This survey, which was last held in 2010, will be repeated in 2012. Conducted by the Ministry of Social Development, Labour and Welfare, it canvasses the views of young people aged 12-24. The Federation of Antillean Youth Care (FAJ), an umbrella organisation for 73 NGOs engaged in sociocultural, welfare, care and assistance activities for children and young people up to the age of 24, also conducts various studies that underpin youth policy.

680. The eleven organisations in the Alliance against Domestic Violence, which also campaigns against child abuse, have visited Parliament and are involved in the development and drafting of government policy on this issue. Some of these organisations receive government grants.

## **6. Independent monitoring**

681. The Committee on the Rights of the Child has advised member states to appoint a children's ombudsman or establish an equivalent human rights organisation to which children can turn if their rights have been violated. The government of Curaçao is taking the necessary steps to establish a Human Rights Institute on the island. Children may take their complaints to the Ombudsman or a number of other organisations and referral centres. Schools also have social workers to whom they can turn for help.

682. In addition, the Curaçao Child Protection Organisation (SKB-C), a local NGO, has set up a Children's Rights Centre where children can go with questions about the law, about divorcing parents, fights at school, or encounters with the criminal justice authorities. The goal of the Centre is to empower children and young people by answering their legal questions, making them aware of their rights, and supporting and counselling them if they become involved in legal proceedings.

683. In 2008, on the basis of the Youth Care Policy Framework 2005, the Curaçao Guardianship Council and several other bodies launched an initiative to establish a multidisciplinary Youth Care Team consisting of a core team and a support team. The team was duly established and commenced operations in 2009. It has the following tasks:

- To make an assessment of the best possible strategy in specific cases;
- To determine where this strategy can best be put into practice;
- To oversee the implementation and success of the strategy.

684. After an assessment has been issued, cases are referred to the bodies in the core team and/or support team, or to other bodies or services that are best equipped to help. Cases are referred to the Youth Care Team both by the participating organisations and by other organisations.

685. The core team consists of a doctor, a psychologist, a member of the Guardianship Council, a social worker specialised in youth services, an education expert and a coordinator. An expert specialising in care of addicts or of the disabled may be called in if necessary.

686. In 2011 the Youth and Families Centre opened. The legal basis for the Centre is contained in the Youth Care Bill at present before parliament, which forms part of youth policy.

687. The Youth and Families Centre focuses on the following areas:

- Strengthening families and the self-reliance of family members;
- Providing support with the upbringing, education and development of children and young people;
- Providing shelter, assistance and support, and engaging in activities that strengthen the position of young people and vulnerable groups;
- Promoting gender equality and equal treatment.

688. The Youth and Families Centre receives new cases every week, and since December 2011 has been managing a case load of 150 families, in collaboration with the Youth Care Team.

## **7. General awareness of the Convention and related documents**

689. A proportion of the population is aware of the fact that the Ministry of Social Development, Labour and Welfare is responsible for coordinating the implementation of the Convention. The rest of the population (children and young people themselves, parents/carers, professionals) will be made aware of the Convention thanks to the Ministry's "Children's Rights Communication Plan".

690. The reports and recommendations of the Committee will be sent in digital form to all relevant bodies — government, private-sector and NGO — that have helped produce this report, and all other stakeholders. After political office-holders have been informed, debates will be organised at secondary school, in the Council of Ministers and in the Parliament of Curacao (legislature). Public panels will also be organised on the rights of the child and the Committee's findings.

## **8. Funding available**

691. Nine per cent (9%) of the Ministry of Social Development, Labour and Welfare's budget is reserved for the implementation of programmes and projects for children and young people, including community work and counselling.

692. Each year, ANG<sup>47</sup> 44 million of the Ministry's budget is reserved for grants to organisations concerned with measures to protect children, including the prevention of violence, child labour and sexual exploitation, and rehabilitation programmes.

693. The Ministry of Education, Science, Culture and Sport sets an annual budget for the various types of education offered in Curaçao. See part I of the statistical appendix for the allocation of this funding.

694. The Coordination Centre of the Ministry of Education, Science, Culture and Sport, which is responsible for childcare centres, receives ANG 3.9 million a year from the Ministry's budget for the child placement grant and administration costs. Another ANG 4 million of this Ministry's budget is earmarked for after-school care provided at 24 schools and four private care organisations that have been subsidised for the past two years.

695. The Socio-Economic Initiative (SEI) programme encompasses over a hundred projects in various fields, including a number that benefit children. The programme began in 2008 and is due to run until the end of 2012. SEI is funded by development assistance from the Netherlands provided in the context of debt forgiveness. See also the statistical appendix, part I.

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<sup>47</sup> Antillean Guilder; USD 1 = ANG 1.82.

696. The Antillean Cofinancing Organisation (AMFO) has funded projects in the Netherlands Antilles using Dutch money. Since 1 January 2011 only NGOs in Curaçao and St Maarten can qualify for funding. The general aim of this funding is to promote social development, community self-development and innovation on the islands. The Dutch government — AMFO's sole donor — committed a maximum of EUR 6.5 million in grants for 2011. The projects will gradually be incorporated into Curaçao's own development policy and budget.

697. *Stichting Samenwerkende Fondsen* (SF) consists of five major Dutch funds that provide support for local initiatives in the Caribbean part of the Kingdom. The five funds joined forces in 2008, and are working together on several islands. SF provides financial contributions for social projects, with a focus on vulnerable groups in the community. See also the statistical appendix, part I.

## 9. Data collection

698. Curaçao does not yet have a national system for collecting and analysing data in all fields associated with children's rights. The various ministries, public sector organisations and NGOs often each have their own method of keeping statistics. There are however a number of central registration systems, such as the Youth Monitor and the Central Registration System (CRS), which contain information from bodies that work with children and young people.

699. The Central Bureau of Statistics (CBS) conducted its general census in Curaçao in early 2011. The previous one was held in 2001. Parts of the final, comprehensive dataset are already available.

700. The Curaçao Child Protection Organisation, which has set up an Advice and Reporting Centre for Child Abuse and Neglect (AMK), also introduced a new digital recording system for children in 2010, with funding from SF. The system differentiates between the parties reporting incidents, and the nature and background of reports. More information on the AMK can be found in V, article 19.

701. December 2009 saw completion of the report on a study commissioned by the Netherlands Antilles National Commission for UNESCO. Entitled "The Boy Problem", it examines gender differences in school careers on the islands of the Netherlands Antilles.

702. In 2009 the government conducted a follow-up study of the quality, capacity and cost-price of childcare centres. Students from the Netherlands also investigated the quality of childcare, including in Curaçao, in 2010.

703. In 2010 the Curaçao Child Protection Organisation's Child Abuse Expertise Centre conducted a number of studies on child abuse. They focused on crèche workers, teachers, school social workers, youngsters themselves and family doctors. Dutch students also conducted studies on child abuse in 2011.

704. Finally, in 2011 the "First Millennium Development Goals Report" was published for Curaçao and St Maarten, with technical support from the United Nations Development Programme.

## Article 42

### Making the Convention widely known

705. There are as yet no structural awareness-raising activities about the Convention on the Rights of the Child, its Protocols and the recommendations of the Committee that target children, parents and professionals working with and for children. At the moment, a

number of bodies — government organisations, schools and NGOs — all attempt to raise awareness of the Convention and the related documents in their own way and on their own initiative, sometimes in collaboration. They distribute brochures and posters, run websites, organise activities, or hold workshops and courses for professionals working with and for children, parents, and children themselves. Parts of the Convention have been translated into the local language, Papiamentu, for this purpose.

706. The Curaçao Child Protection Organisation provides information on the Convention and all the individual articles on its website, and also produces brochures and posters. In addition, the Organisation gives lectures, workshops, training and seminars on child abuse and the rights of the child. It organises a range of activities on International Children's Rights Day including, for the past few years, a march involving around 200 children aged 3 to 16.

707. Non-profit organisation *Sentro di Informashon i Formashon na beinestar di Mucha* (Training and Resource Centre for Early Childhood Care; Sifma), whose main objective is to promote a good upbringing for young children and children at risk in deprived situations, also has information about the Convention on its website. Since 2001 this organisation has been responsible for compiling the NGO shadow reports on the implementation of the Convention, and copies of these reports and the Committee's recommendations can be downloaded from its site.

708. In 2010, at a conference on sexuality, sex education and sexual abuse organised by the Curaçao Child Protection Organisation, Sifma gave a presentation entitled "The Convention on the Rights of the Child: a dead letter?". In 2011 several television commercials appeared providing parenting advice that also drew attention to the rights of the child.

709. For some time now, the secondary school curriculum has offered ample scope for activities and lessons relating both to the Convention and to "human rights" in general, mainly as part of the subjects "Mankind and Society" and "Ethics". In "Healthy Lifestyles and Physical Education", and "Social and Emotional Development" lessons, pupils learn how to interact with disabled people. The Monseigneur Verriet Foundation also regularly invites schools and associations to guided tours and information sessions, to make them aware of the support and guidance given to disabled children.

710. The foundation based education curriculum includes attainment targets that strongly emphasise rights, obligations and responsibilities; the ethical standards and values of the community; and culture and multiculturalism. Children also learn that violence and discrimination must be eliminated, and why.

711. Schools that provide after-school care services also offer activities designed to make children aware of their rights. On International Children's Rights Day, the government subsidises a special programme focusing on children and their rights for all childcare centres and centres/schools providing after-school care.

712. Youth organisation *Bos di Hubentut* ("Voice of Youth") is an NGO funded partly by the government, which raises awareness of children's rights. It campaigns against various forms of child abuse, encouraging public debate on the issue. Since 2008 it has organised an annual Children's Rights Festival in November, as part of its campaign to stop child abuse, *Kibrando Gritunan di Silensio*. The festival focuses in an interactive way on the most fundamental children's rights. Children from primary school years 5 to 8 and years 1 and 2 of secondary school participate in the festival. All schools are approached to take part, and the response is very good. In 2011, over 3000 children took part in the three-day festival. It is organised in collaboration with other bodies — the Federation of Antillean Youth Care, the Guardianship Council and *Fundashon Material pa Skol* (FMS), a government fund for the development of teaching materials. At the end of the festival, the

young participants are given an evaluation form on which they can say what they thought of the festival. The government subsidises the event.

713. On International Children's Rights Day youth organisation *Bos di Hubentut* and a number of other organisations hold a silent, candle-lit procession to bring some light to the lives of all victims of sexual abuse, and to make a public plea for all possible measures to be taken to bring sexual and other forms of abuse to an end. The youth parliament, which is also part of this organisation, broadcasts a radio programme, "*Pika Leng*", in which young people debate issues that affect them. The youth parliament is also subsidised by the government.

714. Finally, the Ministry of Social Development, Labour and Welfare has distributed UNICEF's very readable book on the Convention on the Rights of the Child on the island, and plans to translate the full text of the Convention into Papiamentu.

## II. Definition of the word "child"

715. Article 233 of the Civil Code sets the age of majority at 18 years and also widens the definition to include "individuals who have been declared of age under article 235ha". Article 253ha of the Civil Code permits 16-year-old females to exercise parental responsibility if they wish to care for and raise a child. The court will only grant such a request if it feels this is in the interests of both the mother and her child.

716. It should be noted that the Labour Regulations ascribe a different meaning to the term "children"<sup>48</sup>, defining them as "individuals who have not yet reached the age of 15", while "young people"<sup>49</sup> are defined as "individuals of either sex aged between 15 and 18".

### Age of civil majority

717. Majority is attained when a child reaches 18 years; upon marriage; or, in the case of unmarried mothers, through a declaration of majority when they reach the age of 16.<sup>50</sup> According to the Civil Code, "majority" means that an individual is fully competent to perform legal acts and to appear in a court of law.

718. A minor may perform legal acts with permission from his or her legal representative (parent(s) or guardian). Permission will be granted only for a specific legal act or for a specific purpose. Furthermore, by law minors are competent to perform legal acts unless otherwise specified in law, and permission will be assumed to have been granted to the minor if the legal act concerned is normally performed independently by minors at the age in question.<sup>51</sup>

<sup>48</sup> Labour Regulations 2000; Article 2, para 1c.

<sup>49</sup> Labour Regulations 2000; Article 2, para 1d.

<sup>50</sup> Article 233, Civil Code.

<sup>51</sup> Article 234, Civil Code.

### III. General principles

#### Article 2

#### The right to non-discrimination

719. The Constitution of Curaçao states in clear terms that discrimination is not permitted: “All persons in Curaçao will be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, gender or any other grounds is not permitted.”<sup>52</sup>

720. Furthermore, under the Charter for the Kingdom of the Netherlands, it is the duty of every country in the Kingdom “to promote the realisation of fundamental human rights and freedoms, legal certainty and good governance”.<sup>53</sup> Anyone who believes he has been subjected to unequal treatment and has thus been discriminated against may therefore invoke the law.

721. Discrimination is also defined in the Curaçao Criminal Code: “Discrimination is taken to mean any form of distinction, any exclusion, restriction or preference with the aim or result of precluding or undermining the acknowledgement, enjoyment or exercise, on the basis of equality, of human rights and fundamental freedoms in the political, economic, social or cultural domain, or in any other area of life”.<sup>54</sup>

722. The first paragraph of article 2:60 of the Criminal Code lists all groups of people to whom the ban on discrimination applies. They include people with a physical, psychological or intellectual disability and people belonging to national minorities. This definition contrasts sharply with the definition in the old Criminal Code, which referred only to discrimination on the grounds of race, religion or belief.

723. If a child is discriminated against, the child cannot as a minor report the act of discrimination itself. It is stipulated in law that the child’s parents or the person who has legal custody of the child may report the act of discrimination.

724. The Country Ordinance on Compulsory Education passed by the Netherlands Antilles in 2008 and as of 10 October 2010 in force on Curacao, states explicitly that all children of school age have the right to attend school — including children who were not registered at birth. The law stipulates that no child may be barred from attending school: every child has the right to be educated.

725. Other legislation on education, such as the Country Ordinance on Foundation Based Education, stipulates that access, admission and suspension of pupils is to be arranged in such a way that a child always has access to education. No child may be refused admission to school, either for financial reasons or because of their mother tongue or for reasons of religion, if the school in question is the only school within a radius of five kilometres. Parents on social assistance receive a stipend once a year for school uniforms and other school materials. The government also subsidises transportation for students whose parents receive social assistance or have incomes below a pre-determined maximum.

726. As regards children from minority groups, all the education statutes have been drafted in such a way that all children of compulsory school age or above may have access to education. This applies to both publicly and privately funded education. The Country Ordinance on Compulsory Education stipulates that all children of school age in Curaçao

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<sup>52</sup> Article 3, Constitution of Curaçao.

<sup>53</sup> Article 43, Charter for the Kingdom of the Netherlands.

<sup>54</sup> Article 1:221, Criminal Code.



must have normal access to all forms of education. Even the children of parents from minority groups who are on the island illegally must be given access to education.

727. The SGR Group for care and rehabilitation of the disabled, which includes the Monseigneur Verriet Foundation, deals with the care needs of all children, and also receives applications from the parents of children in several other countries, including the Netherlands and neighbouring islands like Haiti, Jamaica and St. Vincent.

728. Although, in principle, only children covered by General Exceptional Medical Expenses Insurance (AVBZ) qualify for placement in a Monseigneur Verriet Foundation facility, outpatient care is provided irrespective of how the child is insured.

729. Finally, children's human rights are one of the main priorities of the government of Curaçao. The Ministry of Social Development, Labour and Welfare, the Ministry of Health and Environment and the Ministry of Education, Science, Culture and Sport, all work towards elimination of discrimination against children. The ministries either carry out their own programmes for this purpose or subsidise NGOs which implement their policies.

### **Article 3**

#### **Allowing the best interests of the child to prevail**

730. The best interests of the child are the key focus of juvenile criminal law. This is particularly apparent in the articles that apply specifically to minors. Articles 2:200 and 2:202 of Title 13 (sexual offences) of the Criminal Code stipulates that, before proceeding with a prosecution, the Public Prosecution Service will give a minor victim of sexual abuse (aged 12 to 15) the opportunity to give his/her opinion as to the desirability of prosecution for the offence committed.

731. Article 1:174, paragraph 1c of the Criminal Code provides that placement in a young offenders' institution is possible only if three requirements set out in the legislation are met, including a requirement that the measure must be in the interests of securing the best possible development of the young offender in question. For more information concerning placement in a young offenders' institution, see VIII, article 37 b-d.

732. The interests of the child also play an important role in the Country Ordinance on Joint Responsibility mentioned in section I. Under this legislation, children have a right to access to both parents, unless this would be at odds with vital interests of the child. It also explicitly imposes on parents a duty to care for the minor child and to raise it without resorting to emotional or physical violence or any other form of degrading treatment. Finally, parental responsibility also includes an obligation on the parent to facilitate the development of ties between their child and the other parent.

733. Although parents bear primary responsibility for their children, there are both governmental and non-governmental organisations in Curaçao whose main priority is the interests of children. To these organisations, the interests of the child are not merely a consideration, they are their chief concern. In the event of any conflict of interests, in many cases the interests of the child will be given precedence.

### **Article 6**

#### **The right to life, survival and development**

734. One new development in healthcare has been the drafting of protocols for child abuse cases, in collaboration with the Curaçao Child Protection Organisation. More information on this matter can be found in V, article 19.

735. Capital punishment has been removed entirely from the Criminal Code, while another feature of the new Code is that it criminalises both performing and undergoing any treatment which either party may reasonably suspect might end a pregnancy.<sup>55</sup>

736. Several developments in youth care and youth policy in general, as well as the activities of bodies concerned with the welfare, development, education and care of young offenders are indirectly intended to prevent violence, repeat offending and suicide among young people.

737. The Juvenile and Vice Police Squad gives talks in schools about the use of violence and explains to young people what constitutes a criminal offence. It goes into schools approximately five to ten times a year, or when there have been fights or other problems, for example. The squad is sometimes also approached by schools to provide information at parents' evenings.

## **Article 12**

### **Respect for the views of the child**

738. Different bodies have different ways of taking account of the views of the child in decisions that are directly or indirectly connected with their protection.

739. The section of the Civil Code on family law accords the views of the child an important role in determining its best interests. The views of the child themselves do not, as a single factor, determine what those interests are. They must be supported by the facts of the case, and the age and maturity of the child must be considered when drawing conclusions as to whether what the child wants is really in its best interests. In general terms, irrespective of the situation, the child's views must be heard and taken into account in an appropriate manner.

740. In order to take the views of the child into account in the drafting of this report, youth organisation *Bos di Hubentut* was asked to contribute. This organisation also runs the Youth Parliament and the Youth Brigade. *Bos di Hubentut* commented that the government does not take a structural approach in listening to and taking account of the views of children.

741. The views of children are implicitly taken into account in the education sector. The Central Roman Catholic School Board (RKCS) introduced a complaints procedure on 1 March 2011, as stipulated in the Country Ordinance on Foundation Based Education. Every two years, a pupil satisfaction survey is held at a number of schools, giving them an opportunity to make their views known.

742. Some schools also have a pupils' council. At others, parents have a say via the parents' committee. Existing policy and regulations can restrict schools' room for manoeuvre, but policies are being introduced to give them as much freedom as possible.

743. In the healthcare sector, the Hamied Foundation, launched in 2007, provides palliative care for children up to the age of 18. It takes an active, comprehensive approach to the care of children with a life-threatening or life-shortening condition. The Foundation focuses on giving them the best possible quality of life, and the care provided is determined mainly by the individual needs and capabilities of the child. The views of the child thus play a key role. One problem associated with this is that close relatives do not always have the same views as the child, which can lead to irreconcilable differences between the child

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<sup>55</sup> Articles 2:279 and 2:271, Criminal Code.

and its family. The Foundation offers counselling and support, and mediation in family discussions, to help overcome this problem.

744. At the Monseigneur Verriet Foundation disabled children are largely represented through various parents' committees. A client council, that has a say on various issues, has also been launched, but consists presently only of adults. In practice, children are asked to give their views, depending on their level of intellectual disability — mild, moderate or severe. It is not always possible to give them what they want, however. It is ultimately the legal representatives of the child, such as relatives or guardians, who decide for the child, sometimes against its wishes.

745. The Family Supervision Agency is attempting to arrange insurance for children without identity papers. In doing so, it takes the views of these children and their carers into account. The social workers (family supervisors) also take account of the views of their charges. They stay in contact with the child, and draw up a plan of assistance which reflects its views and wishes. From the age of twelve, children under a supervision order may also make their views known to the children's judge.

746. In the criminal justice system, young people placed in the *Gouvernement Opvoedingsgesticht* detention centre are allowed to make their views known on matters that concern them. If a young person feels misunderstood by their supervisor, they may approach the head of the wing. If necessary, they may then turn to the social worker, family supervisor, education coordinator and, ultimately, the director.

747. In the regular prison, young people can make their views known in a petition, or they may approach the head of the wing or the complaints office. In more general terms, the criminal justice system has established procedures for the submission of complaints. These procedures apply to both adult and juvenile inmates.

## IV. Civil rights and freedoms

### Article 7

#### Name and nationality

748. As reported in section I, on 9 October 2010 the Country Ordinance revising the law on names entered into force, allowing parents to choose to give their child the surname of the father or the mother. This legislation upholds the principle of unity within the family. The choice of surname for the first child also determines that of any subsequent children the parents have together. A child aged 16 or over whose paternity has been acknowledged or who has been adopted may choose either its father's or its mother's name. The young person's views on the matter must be heard.

749. A change has occurred as regards acquisition of Dutch nationality through acknowledgement of paternity. Between 1 April 2003 and 1 March 2009, any child with a foreign nationality who was acknowledged by a Dutch national did not automatically acquire Dutch nationality. Since 1 March 2009, any such child who is acknowledged by a Dutch national before the age of seven automatically becomes a Dutch national. A child with a foreign nationality who is between seven and 17 at the time of acknowledgement does not acquire Dutch nationality until submission of a DNA test performed by an accredited laboratory that demonstrates the biological paternity of the Dutch national acknowledging the child.

**1. Registration of children from minority groups**

750. Individuals from minority groups may also register the birth of their child immediately via a simple procedure. To emphasise the importance of registration, the procedure is kept as accessible as possible, particularly for parents and children without a valid residence permit. The registrar of births, deaths and marriages may under no circumstances contact the Immigration Service. After the birth, the parents are given an official notice confirming the birth, and are referred to the registry of births, deaths and marriages. However, listing in the register of births does not automatically mean the child is registered in the personal records database. This does require a valid residence permit, if applicable.

**2. Late registration of birth**

751. Late registration of birth is permitted. The registrar of births, deaths and marriages will report any birth registered after more than five days to the Public Prosecution Service. In most cases where a birth is not registered, the child's data will end up in the population register via the school or family doctor, for example. As can be seen in part IV of appendix V, births are sometimes not registered until many years later.

**3. Judicial declaration of paternity**

752. As stated in section I, the Civil Code was amended by means of the Country Ordinance on Judicial Declarations of Paternity, which entered into force on 1 January 2012. This amendment to the Civil Code provides for the establishment of paternity through the courts in cases where children are born out of wedlock and where children have not been acknowledged by their biological fathers. This has eliminated discrimination in matters of inheritance, whereby those either born within wedlock or acknowledged by their biological fathers were given precedence over these categories of children.

**Article 17c  
Access to information**

753. Modern computer technology gives children easier access to information, particularly in school. The public library also offers various forms of online access to information. In 2010 the youth section of the public library, which targets children aged 2-13, opened a special computer corner for educational purposes, with the aim of improving children's computer skills. Youngsters from the age of 14 can also use the library's general computer facilities and free computer classes are available two afternoons a week for anyone aged 14 and over. The library is accessible for disabled children; it has a disabled parking area, an elevator and specially adapted toilet facilities.

754. A new media lab was opened for all age groups in 2010/2011. Two library staff took "media coach" training to enable them to coach youngsters in the responsible use of media. The public library is fully aware of and does its utmost to prevent access to unsuitable and harmful information. In order to protect children from such information, it has been made a criminal offence to offer or show to minors images that could be harmful to individuals below the age of 16.

755. The school media centre specifically for pupils, teachers and students was modernised in 2011. The library also has an in-house youth organisation that provides a programme specially tailored to young people, including motivational training, presentation courses, a reading group and school introduction courses.

756. Membership of the public library is free of charge for all children under the age of 18. The library has a large collection of study material, audiovisual material, literature and informative publications in several languages. It organises and participates in a range of activities designed to encourage children to read, and in 2012 will launch a project to make every child a library member. The library has also worked hard to improve its collaboration with schools.

757. Finally, the public library has two mobile libraries that visit 36 neighbourhoods. The plan is to reduce this to 21 in 2012, in order to reach the various target groups more efficiently and effectively. The number of visits to schools will be permanently increased, and the mobile library will be kept open for others in the district in question.

758. In terms of education, in 2010 the Central Roman Catholic School Board introduced the Parnassys pupil monitoring system, which allows parents access to their children's educational record. An online application is also available to parents where they can log in and view their children's record.

759. Secondary school pupils can log into their school network themselves to see their marks. Some schools have a Facebook page administered by the school where general announcements are made. Teachers are also increasingly communicating with pupils by email. The schools run by the Public Authority Schools Service and the Central Roman Catholic School Board have a computer and internet security system to protect their computer network.

## **Article 37a**

### **Torture or other cruel, inhuman or degrading treatment or punishment**

760. The Committee noted in its recommendations that corporal punishment is still used both in the home and in schools in Curaçao. Since the entry into force of the Country Ordinance on Joint Responsibility on 1 January 2012, corporal punishment has been prohibited by law in Curaçao. The Ordinance defines parents' role as carers and educators and explicitly states that in raising their children, parents are not allowed to employ either emotional or physical violence or any other form of degrading treatment. The same applies to guardians who are caring for minors, but do not exercise responsibility for their charges.

761. In accordance with this new legislation, in May 2012 the Joint Court of Justice of Aruba, Curaçao and St Maarten ruled that hitting children will not be tolerated, and that anyone who does so will be punished.<sup>56</sup> The ruling was made in an appeal case in which a crèche employee had been summarily dismissed after striking a child in the office at the crèche.

762. In its ruling the Court stated that the efforts of the government and the education authorities in Curaçao are focused on reducing the corporal punishment of children. An absolute ban on corporal punishment has been in force for some time now in schools. In the ruling, the Court took into account the provisions of the CRC and the Committee's recommendations of 27 March 2009. Finally, the Court stated that administering or threatening corporal punishment in schools is in breach of the Convention for the Protection of Human Rights and Fundamental Freedoms.

763. The fact that the member of staff was said to have received permission from the mother of the child did not mean there was no compelling reason for summary dismissal,

<sup>56</sup> BW8379, Joint Court of Justice of Aruba, Curaçao and St Maarten, and of Bonaire, St Eustatius and Saba, EJ 50447/11 – H 24/12.

since article 19 of the CRC also applies to parents. This is expressly stated in article 1:247, paragraph 2, of the Country Ordinance on Joint Responsibility. The Court thus made it clear that it will not tolerate the striking of children anywhere — not just in crèches, but also in other situations, including in the parental home.

764. Several government-subsidised NGOs have also been active in the promotion of non-violent ways of disciplining children and in promoting better communication between parents and children, as well as respect for the human rights of children. A number of parenting programmes run by government agencies or subsidised NGOs teach parents better parenting skills and respect for the child's human dignity.

765. The new Criminal Code makes assault an offence,<sup>57</sup> and provides for more severe sentences for domestic violence,<sup>58</sup> in an article that has been expanded to include violence against individuals, including children, for whom the offender has responsibility, or children being cared for and raised as part of his or her family.

766. The Criminal Code also stipulates that in cases where people smuggling also involves inhuman or degrading treatment, or results in serious bodily injury or puts the life of another in danger, a prison sentence of up to twelve years or a fifth-category fine may be imposed.<sup>59</sup>

767. The government-run central registration and referral centre (CMK) also serves as a database to be used for analysis, monitoring and evidence-based policymaking. Since the introduction of mandatory reporting of abuse, schoolteachers have been receiving training in the detection of child abuse and domestic violence. Special investigating officers have been appointed to look into cases and bring them to prosecution. It has also been determined that their duty of confidentiality may not prevent doctors and others from reporting child abuse.

768. In the education sector, the Country Ordinance on Foundation Based Education stipulates that the competent authority (school boards) and staff at the school must report all cases of violent crime and sexual abuse.<sup>60</sup> If they have reason to suspect that sexual abuse or a serious assault has occurred, they must immediately report this to the investigating officer, irrespective of whether the crime has been committed by school staff, parents, guardians or another party.

769. The school regulations drawn up by the Central Roman Catholic School Board explicitly ban staff from insulting pupils or administering corporal punishment. A pupil may not be removed from a classroom except for short periods in which he or she must remain in view of the teacher.

770. There have been a number of campaigns, courses and programmes designed to raise awareness of alternative ways of disciplining children:

- In November 2011 eight organisations, both governmental and non-governmental, joined forces in the fight against child abuse and other abuses, in the “No Mas, No More” campaign. November was declared abuse awareness month, and various informative activities took place.
- The subject of “disciplining” is covered in the Social and Community Work 2 and Compulsory Youth Training Programme courses run by Sifma and funded by the government, as well as in the “Opstap Opnieuw” programme that ran from 2008 to

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<sup>57</sup> Article 2:273, Criminal Code.

<sup>58</sup> Article 2:277, Criminal Code.

<sup>59</sup> Article 2: 154, Criminal Code.

<sup>60</sup> Article 8 of the Country Ordinance on Foundation Based Education.

2010, and was funded by the Antillean Cofinancing Organisation (AMFO). The programme, which was designed to stimulate development, was aimed at children aged 4 to 6 and their parents. The non-corporal way of disciplining children is also covered in the “Kaleidoscope” educational method that has been used by the government at daycare centres and playgroups since 2010. Since 2008, Sifma has also had two staff who are certified “Kaleidoscope” trainers. For more information, see VI, article 18.

771. The various reporting centres for child abuse refer children to the appropriate organisations for therapy and support in order to help their recovery and social reintegration. Victim Support also provides initial care and refers victims to other organisations. It offers a free, round-the-clock service and provides information, assistance and support on a professional and confidential basis.

772. If a minor child is growing up in circumstances that threaten his or her development, he or she may be placed under a supervision order. In such cases, the children’s judge will also appoint a family supervisor from the Family Supervision Agency. It is the task of the family supervisor to do everything in his or her power to help the child to recover from the harm it has suffered, and to counsel the parents so that there is no repetition. The family supervisor helps both parent and child, and can also call in other professionals, to give the child psychological support and treatment. Minor children who are insured under their parents’ health insurance policy have access to counselling and psychotherapy.

773. At the *Gouvernement Opvoedingsgesticht* detention centre children who have been the victim of violence are offered educational guidance, treatment and training so that, on their return to society, they can continue in training or find and keep a job. If their first support network remains a threat to their wellbeing, alternative accommodation is sought. One problem, however, is that few alternatives are available. As a result, young people can spend years under a child protection order, because the parents generally retain their rights, even though they constitute a threat to the child.

774. For more information, see V.

## V. Family environment and alternative forms of care

### Article 9

#### Separation from parents and the right of access

775. Under the Civil Code, which was amended by the Country Ordinance on Joint Responsibility, parents generally exercise joint responsibility. Sole responsibility is the exception, and may be instituted only if it is in the best interests of the child.

776. Children who are born in Curaçao and have at least one parent who is legally resident in Curaçao are subject to different rules than children born abroad. A child born on the island who has no residence status will be allowed to remain but the parents will be ordered to apply for residence status for the child. Children born abroad are subject to the general rule that they must await the decision on their application for admission outside the country.

777. Illegal minors are never deported from the island. Their parents may however be deported, in view of their illegal status. Minors and youngsters still dependent on their parents will then accompany them.

## **Article 10**

### **Family reunification**

778. A child born in Curaçao automatically acquires the nationality of its parents. If the parents are not Dutch nationals, the child will acquire the foreign nationality of its parents, and aliens policy will apply to the child.<sup>61</sup>

779. In cases where a child is born and raised in Curaçao but has no residence permit, it remains the responsibility of the parent(s) to apply for suitable legal documentation for the child. Applications for residence permits for children born in Curaçao will in principle be approved if at least one of the parents resides on the island legally.

780. One problem the government encounters in its efforts to prevent the separation of children and parents as a result of residence issues is that, since parents are aware of the fact that a child may not suffer disadvantage as a result of the residence permit of its parent(s), they make little effort to apply for legal status for their children. Another issue is children who, through the fault of their parents, have resided in Curaçao illegally for a long period of time, and therefore experience problems when they wish to study abroad.

## **Article 11**

### **Illicit transfer and non-return of children abroad**

781. The illicit transfer and non-return of children abroad occurs sporadically, virtually always as a result of a divorced parent who is a foreign national taking the child to another country after the divorce. Such cases are handled with the help of Interpol Curaçao, in collaboration with the global Interpol network. In 2011, during the celebrations marking the 80th Interpol General Assembly in Vietnam, Curaçao's application for independent membership was accepted.

782. For more information on measures to protect children from abduction, see VIII, article 35.

## **Article 18**

### **Parenting support**

783. The Family Supervision Agency is calling for a major campaign to train social workers under the Triple P programme (Positive Parenting Programme) so that all relevant ministries have facilitators who can give the courses. The programme is part of the parenting support system and is designed to prevent emotional and behavioural problems in children. Triple P International has an official local trainer on the island, and several facilitators have already been trained. There is however a major shortage of facilitators, resources and materials.

784. The SGR Group's Social and Community Work Service (SPD) has launched a new programme entitled "Practical Family Support" to help the parents of disabled children with a range of parenting problems. However, the SPD has insufficient resources and manpower to meet the demand for parenting courses or to offer the necessary parenting support. Another problem the SPD encounters is that it often proves difficult to assist parents who have a mild intellectual disability themselves.

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<sup>61</sup> Revised Instruction of 1 June 2006 concerning application of the Country Ordinance on Entry and Deportation (Official Bulletin 1966, no. 17) and the Decree on Entry (Official Bulletin 1985, no. 57).



785. The government provides annual funding for a range of social, cultural and educational activities, including:

- The “Life Skills” programme for parents and carers of school-age children, in order to help with parenting and to help develop skills that will help them find and remain in work. The goal is to help 1444 parents/carers into work by the end of the programme in 2013.
- The “Family Training” programme provided by the Youth Welfare Services Training Centre (SVJ), aimed at parents and children. The goal of the programme is to support parents to ensure they are able to raise their children responsibly and function more effectively in society.
- *Rumbo pa trabou* (“Towards Work”), a programme providing support for young mothers and others to help them find work.

## **Article 19**

### **Protection from abuse and neglect**

786. The government-run Central Registration and Referral Centre for Child Abuse (CMK), whose purpose is to investigate, coordinate and register cases of child abuse can, if necessary, refer cases to the relevant professionals. The establishment of the centre means that the Guardianship Council now has a statutory central registration and referral facility with the following tasks:

- Advising individuals who suspect child abuse is occurring, and recommending appropriate steps;
- Investigating reported or suspected cases of child abuse;
- Informing other criminal justice authorities of actual or suspected child abuse.

787. The Country Ordinance establishing the CMK explicitly defines child abuse: “Child abuse shall be taken to mean any form of threatening or violent interaction of a physical, psychological or sexual nature actively or passively forced upon a minor by the parents or other persons with whom the minor is in a dependent or otherwise tied relationship, causing or threatening to cause the minor severe physical or psychological harm”.<sup>62</sup>

788. The Curaçao Child Protection Organisation’s Advice and Reporting Centre for Child Abuse and Neglect (AMK) targets all abused and neglected children and young adults up to the age of 21. The AMK is staffed by professionals and focuses mainly on providing information and advice, identifying cases of abuse and neglect, conducting investigations, mediating and referring victims for care and counselling. Although it was intended that project funds should be earmarked for the AMK in the government budget from 2010, this has not yet occurred. The Child Protection Organisation has however signed a contract with the government for a child helpline service.

789. The Juvenile and Vice Police Squad occasionally receives reports of assaults on minors. It receives many reports of sexual abuse. Police officers know they have a duty to report such matters. They are obliged to inform the Squad of sexual abuse and, if necessary, take the child to the Squad or to a doctor.

<sup>62</sup> Article 243a, paragraph 2 of the Country Ordinance establishing the Child Abuse Registration and Referral Centre.

790. The obligation of teachers and other education professionals to report suspected cases of child abuse is discussed in IV, article 37.

#### **Protocol on child abuse**

791. Besides the Advice and Reporting Centre for Child Abuse and Neglect and the child helpline, the Curaçao Child Protection Organisation has helped a number of organisations draw up and adopt their own protocol on child abuse.

- With the youth healthcare service (JGZ) the Organisation drew up a protocol for all staff, and for the staff of the White Yellow Cross, an organisation which provides home care in the broadest sense, especially home nursing for the sick, home help and care of infants and young children. The protocol was presented to all staff of the bodies involved at a seminar in September 2009, and is evaluated annually.
- A protocol has also been drawn up in collaboration with the managers of a large number of childcare centres. It was presented and discussed in September 2009 and 89 childcare centres have now had training, representing some 65% of all childcare centres on the island. Refresher courses are provided every year.
- In February 2009 the AMK gave workshops for all staff of the children's ward at the Sint Elisabeth Hospitaal. The workshops were followed up with training in child abuse cases, which led to a protocol being presented to the hospital in May 2009. The protocol was presented to a wider audience within the hospital at a conference on child abuse in April 2010. The protocol is evaluated every year, and regular refresher courses are provided.

792. Finally, the Child Protection Organisation held an information and expertise-building meeting for the entire staff of the Court of Justice.

793. The AMK also receives a growing number of requests from institutions, youth organisations and individuals for expertise building, information, educational material and study assignments. To meet the demand, the Organisation set up the Child Abuse Expertise Centre in January 2010. Since then, a number of activities on the issue of child abuse have been initiated, including conferences and studies.

794. Youth organisation *Bos di Hubentut* also has a Youth Brigade to combat child abuse. The brigade monitors and reports cases of abuse, and provides support where necessary. It has now been in existence for six years, and currently has 134 members aged 15 to 22. The young members receive weekly physical and mental training, and assist the police and other bodies responsible for public safety during mass activities like the *seú* (harvest) parade and the children's carnival. It does so in order to guarantee the safety of all children, both participants and onlookers. Annual exchanges with other countries and cultures take place at a Survival Camp held in a different country each year.

795. Since 2008 *Bos di Hubentut* has also run the "*Kibrando Gritunan di Silensio*" project, which uses various methods to provide information and training on child abuse for both youngsters and adults. Teachers and pupils at all schools receive training. The idea is that teachers should continue with the training for pupils, using the materials they have received.

796. In its "Train the Trainers" project *Bos di Hubentut* trains volunteers who go into schools to teach about sexual abuse and how to prevent it. The lessons take account of the views of children themselves. The youth organisation also broadcasts radio and television commercials on a number of stations, as well as radio programmes. A television documentary about how child abuse was dealt with in the past and now is also currently in production. *Bos di Hubentut* also organised a petition calling on legislators to change the law, introducing heavier sentences for child sex abuse. Generally speaking, there is much

more openness about child abuse and sexual abuse these days, and children are more aware of the fact that they can seek help.

## **Article 20**

### **Children deprived of their family environment**

797. The Family Supervision Agency tries to ensure that children who are removed from their home are kept with their family. This is not always possible, however, because there is not always a relative who is willing or able to take the child in. In such cases, the family supervisor will seek a foster family. If this is unsuccessful, the child will have to be placed in a care home. Failure to place a child with a foster family may be caused by a number of factors, such as the behaviour of the child, or the objections of the biological parents. Several years ago, the government introduced sheltered living schemes for older youngsters with no possibility of returning to their parents when they reach the age of majority. The schemes are run by the Social Care and Recovery Foundation. Disabled children may be placed in an institution run by the SGR Group, which provides care for the disabled and rehabilitation.

798. If a supervision order proves successful, the case will be closed, but not until the goals identified have been met and everyone, including the children's judge, is satisfied with the outcome. Supervision orders expire automatically when the minor reaches 18, the age of majority.

799. In cases where there is no prospect of helping the parents and child, and particularly when the child no longer wishes its parents, family supervisor or others to intervene, or even disappears entirely, the Family Supervision Agency will apply for the supervision order to be withdrawn. The children's judge will not always agree to this, and will ask the Agency to keep the case open in the hope that the child returns or that better facilities become available in future to help this problematic group.

## **VI. Basic health and welfare**

### **Article 6**

#### **The right to survival and development**

800. For more information, see III, article 6.

### **Article 18**

#### **The right to childcare facilities**

801. Statutory minimum requirements and rules have been set for the care of children aged four weeks to four years.<sup>63</sup> An inspection programme by the government revealed that after the transition period several of the 100 or more centres registered with the government did not meet the requirements, and that the absence of a curriculum was one of the underlying causes.

802. To rectify the situation, in 2008 the government began introducing the Highscope/Kaleidoscope curriculum. Kaleidoscope is based on the American Highscope

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<sup>63</sup> Island Ordinance on Childcare (Official Bulletin 1997, no. 98).

method, which aims to enhance the prospects of children and young people from the poorest neighbourhoods. In 2009, nine trainers were trained in the Highscope method, and implementation of the curriculum began in 2010.

803. The aim is for all centres to have staff trained in implementation of the curriculum by 2013. Parents are also being informed of and involved in the Kaleidoscope curriculum, and their response has been overwhelmingly positive so far. Besides introducing the new curriculum, since 2008 the government has also been upgrading the quality of childcare centres by offering staff a range of courses under the Early Childhood Education Programme.

804. To qualify for government-subsidised places, childcare centres must comply with all the statutory requirements. Eligibility for subsidisation depends on the quality of the centre, and the system is administered and monitored by the Ministry of Education, Science, Culture and Sport's Coordination Centre.

805. Since 2011, the Coordination Centre's new inspectorate has had two inspectors who periodically inspect all childcare centres. The inspectorate should become fully functional, with four or five inspectors in 2012. A great deal of publicity is being directed at parents in order to ensure that they know where to go if they have any complaints about childcare centres.

806. Parents who wish to qualify for a government-subsidised childcare place must meet certain criteria. They must for example have an income below the minimum wage, or still be in education. They must also sign a contract undertaking to attend a parenting support programme run by the NGO Sifma.

## **Article 23**

### **Disabled children**

807. A lot of progress has been made in the promotion of the rights of children with a disability in Curaçao. The government continues to subsidise many organisations that work with children with special needs. The government is aware of the fact that much still has to be done to ensure that children with disabilities are fully included in society and is working with NGOs to develop a more comprehensive policy that includes different areas of concern such as autism and physical and intellectual disabilities.

#### **1. Legislation**

808. The Criminal Code does not specifically distinguish between adults with a disability and children with a disability. Several articles in the Code do however explicitly mention persons with a disability. Besides article 2:60, mentioned above, which bans discrimination (see also III, article 2), articles 2: 198 and 2:202 pertaining to sexual offences; article 1:17 referring to hospital orders for convicted offenders and article 1:115 concerning immunity from criminal liability also specifically mention disabled victims.

#### **2. Care of the disabled**

809. The SGR Group for care of the disabled and rehabilitation, which includes the Monseigneur Verriet foundation, is one of the main organisations providing care for the disabled. Parents' association Totolika focuses on children with an intellectual disability and their parents, *Stichting Hulp aan Auditief Gehandicapten* provides assistance for those with a hearing disability, *Fundashon Pro Bista* for those who are visually impaired and *Stichting Opvoedingsondersteuning aan kinderen met een handicap* (SOKH) provides

support with the raising and education of children with a disability, focusing among other things on children with an autism spectrum disorder.

810. All the care provided by the Monseigneur Verriet Foundation is covered by General Exceptional Medical Expenses Insurance. The Foundation enters into care contracts with the Health Insurance Office (BZV). Thus far these contracts have covered all costs. Anyone who wishes to qualify for care at the Monseigneur Verriet Foundation must first be approved by the AVBZ care needs assessment committee. The SGR Group's internal selection committee then decides who is actually to be placed in a Foundation facility.

811. The activities organised by parents' association Totolika for children with intellectual disabilities are partially funded by the government. *Fundashon Pro Bista* and *Stichting Hulp aan Auditief Gehandicapten* obtain part of their income from government subsidies and care contracts.

812. The care provided by the SGR Group has been enhanced, with the aim of allowing children to remain at home wherever possible. The Group's Social and Community Work Service (SPD) has been expanded for this purpose, and is now able to provide more outpatient care. The SGR Group itself offers residential care (for up to three weeks), weekend residential care and extended day care.

813. The SGR Group provides the following care facilities for disabled children:

- Therapeutic toddler group for the rehabilitation of children with multiple disabilities (age 0-4);
- Children's daycare centre for children and young adults with an intellectual disability (age 0-21);
- Daycare centres for children with severe multiple disabilities.

814. Given the lack of care facilities for children with an intellectual disability, the Family Supervision Agency has lobbied the SGR Group to set up homes for intellectually disabled children who have to be taken into care for reasons of safety. Several of these homes are now in operation.

815. The Family Supervision Agency has also established a centre of expertise for children with mild intellectual disabilities, in collaboration with other bodies and the Federation of Antillean Youth Care (FAJ). The goal is to enhance the knowledge of professionals, and of the general population. For this project, the FAJ has entered into a partnership with the William Schrikker Group in the Netherlands, a youth care organisation that specialises in youngsters in this category.

816. The Soeur Hedwig School for special needs education is located on the SGR Group site. The school, which is administered by the Central Roman Catholic School Board (RKCS), provides teaching for children and young adults aged 4-21 who have an intellectual and/or motor disability, or multiple disabilities. The majority of the pupils live at home and use special transport to travel to and from school. New wheelchair buses have also been purchased for SGR Group clients. Although the Group pays the travel costs of its clients and daycare clients, transport remains a huge problem, given the lack of wheelchair buses. Nor is the infrastructure designed to accommodate wheelchair users, which means their access to public places remains limited.

817. There are few cultural and sporting activities for disabled children, particularly in combination with non-disabled children. The SGR Group organises artistic activities and takes its clients along to cultural activities like carnival and the harvest parade. Sport charity Sedreko also organises weekly sporting events for SGR Group clients.

818. The students at the Curaçao Cultural Centre (CCC) include youngsters with a physical or intellectual disability who attend lessons either individually or in groups alongside non-disabled youngsters. If there is sufficient interest from an organisation, CCC can offer special tailor-made courses. CCC also helps disabled youngsters with work placements.

819. SOKH, which provides parenting support for the parents of disabled children, focuses on children with a developmental, social and/or emotional disability, making frequent use of play therapy, music therapy, horse therapy, gardening and other creative therapies. SOKH activities are currently offered at three locations:

- A therapy and expertise centre which is mainly for the registration and testing of children with social and emotional problems, children with an intellectual disability, children with an autism spectrum disorder and/or children with severe multiple disabilities;
- A medical care and special needs education centre that provides day treatment for children aged three to seven with severe developmental problems;
- Savaan House, which provides structured care for children with an autism spectrum disorder and/or social and emotional problems.

### **3. Protecting disabled children from abuse**

820. The SGR Group uses guidelines and protocols to prevent abuse and maltreatment of disabled children, and its staff receive special training for the purpose. Since 2010 the Group has used guidelines for responding to suspected cases of sexual abuse. If it suspects abuse, the Group contacts the competent authorities, such as the Juvenile and Vice Police Squad, the Guardianship Council and the Curaçao Child Protection Agency.

821. The obligation of teachers and other education professionals to report suspected cases of child abuse was discussed in IV, article 37. This obligation also applies to schools for special needs education.

### **4. Support for parents**

822. Parents of disabled children receive parenting support from parents' association Totolika and SOKH, and the SGR Group's Social and Community Work Service makes frequent home visits. It has also been running a "Practical Family Support" programme since 2011. In October 2011 Totolika held a two-day symposium on intellectual disability and sexuality.

### **5. Training professionals**

823. The SGR Group offers counsellors, doctors/paramedics and behavioural experts a continuous programme of further training, often bringing in experts from other countries. All staff at the *Gouvernement Opvoedingsgesticht* detention centre who work directly with young people have received educational training and are given additional training in how to deal with youngsters with mild intellectual disabilities. The police service will also be offered such additional training in the near future.

### **6. Education**

824. The Country Ordinance on Compulsory Education applies to all children aged 4-18, without distinction. Nevertheless, there is a problem, given the fact that special needs schools are often ill-equipped to deal adequately with disabled children due to a lack of know-how and resources. Though some children have the intellectual capacity to attend a mainstream school, they are often not admitted because of their behaviour.

825. Although it has not yet been officially announced, secondary special needs education is available in Curaçao. Pre-vocational secondary education (VSBO) includes work-oriented education (AGO), which has the task of providing education that does not lead to a qualification, and is geared towards preparing students for simple work on the labour market. This type of work-oriented education is available to students up to the age of 18. It is intended for students who have been diagnosed as having special needs, and who would be unable to achieve a regular pre-vocational secondary education diploma.

## 7. Daycare

826. There is as yet no policy on daycare facilities for disabled children at mainstream daycare centres. Some crèches, private nursery schools and playgroups occasionally take on a child with a mild disability, but most daycare facilities have insufficient staff resources to do so. A project designed to promote mixed daycare for disabled and non-disabled children run by *Stichting Bambino*, and subsidised by the Antillean Cofinancing Organisation (AMFO), offers places to special-needs children at mainstream daycare centres.

827. Three years ago, *Fundashon Formashon i Alegria* began providing after-school activities for over 300 children from four special-needs schools. AMFO, the Netherlands Antilles Development Fund (USONA) and *Stichting Samenwerkende Fondsen* (SF) provided funding for the first few years, but future funding is dependent on the government budget for 2013, which is being debated.

## 8. Alternative care

828. Alternative care involves the admission of disabled children under a care order to facilities run by bodies like the SGR Group or to the *Gouvernement Opvoedingsgesticht*. The SGR Group performs care plan evaluations throughout the year to review the placement of disabled children, and to ascertain whether they are in the right place. If the child is not in an appropriate place, he or she will be relocated internally. If a child is placed elsewhere, the Social and Community Work Service monitors the situation for a further year, after which time the case is closed.

## 9. Residential care in the criminal justice system

829. The Juvenile and Vice Police Squad's video interview room can be used to interview children with an intellectual disability. Minor victims, mainly of sexual crimes, can therefore be interviewed in a more informal and less intimidating setting.

830. Thus far, the prison has never had to admit a young disabled prisoner. Such offenders are placed in the *Gouvernement Opvoedingsgesticht*, rather than in the mainstream prison. The *Gouvernement Opvoedingsgesticht* does currently have young inmates with an intellectual disability, some of them placed on the basis of a civil-law supervision order, and others who have been sentenced following a criminal conviction. These youngsters often have social and domestic problems; many have dropped out of school and ended up on the wrong path. The programme and rules at the *Opvoedingsgesticht* have been adapted for these youngsters in order to ensure that they can benefit from their time there.

## Article 24 Health and health care

831. Even though the general feeling is that the public are more receptive to and aware of the need for age-appropriate and gender-sensitive sexual and reproductive health education for adolescents, the government of Curaçao is very concerned about pregnancy and

abortions among adolescents and is therefore implementing a pilot project on young people and sexuality at several schools on the island.

832. More primary and secondary schools are adding sexual health education to their school curricula. The *Biba Amor* (Live Love) pilot programme on sexuality for adolescents is in its second year at five secondary schools. *Biba Amor* covers 12 different topics dealing with adolescent sexuality and reproductive health and aims to empower adolescents by teaching them to make informed decisions about their sexuality, including their reproductive health, unwanted pregnancy, STDs and HIV/AIDS prevention and lifestyle choices. The programme, consisting of lesson plans and DVDs, is currently being evaluated and will be distributed to more schools in the near future.

833. The foundation based education curriculum also includes teaching on healthy lifestyles and physical education. These subjects have been introduced to make young children and adolescents aware of healthy lifestyle choices, healthy housing, healthy eating and healthy living environments, to help improve physical and mental health. Pupils are also taught in an age-appropriate way about sexuality and reproduction.

834. The government also subsidises organisations like the *Stichting Famia Plania*, a family planning body which is engaged in outreach work and awareness-raising among young people inside and outside the school system. Furthermore, the contraceptive pill is widely available at all local drugstores. Condoms are sold in vending machines and drugstores and are also distributed free of charge.

835. The island of Curaçao also has an HIV/AIDS working committee which has a budget for safe sex education. Along with the Health Department, this NGO distributes free condoms to those who request them or sometimes hands them out at public events like Carnival. In school, special attention is also paid to the topic of safe sex. A special booklet has been produced on the subject, with frequently asked questions about the use of contraceptives and prevention of sexually transmitted diseases.

836. In 2011 the Curaçao government launched a new dental health programme for children providing free dental care for schoolchildren aged 6-12. The mobile dental surgeries that had been abolished in 2006 were reintroduced in 2011, providing free dental check-ups for children.

## **1. HIV/AIDS prevention**

837. The right of children with HIV/AIDS to receive an education is guaranteed under education legislation, which bans discrimination on any grounds whatsoever.

838. The aids foundation *Aids Stichting Nederlandse Antillen*, which has existed for some 20 years, still provides teaching on HIV/AIDS at any school that requests it. The foundation works with trained volunteers, many of whom are students at the University of Curaçao. Teaching in schools is mainly targeted at children aged twelve and over, and includes information about the body, sexuality and reproduction, and disease prevention. The foundation uses multilingual brochures and a compendium of sexually transmitted diseases in Papiamentu (entitled *Kòmpendium di malesanan transmití seksualmente*), which is distributed to schools. The foundation provides HIV/AIDS teaching for other organisations on request.

839. The aids foundation has noted that the public have a greater awareness of the issue, that a number of organisations are providing teaching on the subject, and that it is discussed more frequently, albeit still not enough. Over the past few years it has also conducted a major information campaign against the stigmatisation and discrimination of people with HIV/AIDS.



840. The family planning organisation *Stichting Famia Plania* also provides young people with information on sexuality, reproduction and the prevention and treatment of disease, either on its own premises, in schools or as part of out-of-school activities. Over the past few years, the organisation has become more proactive, approaching young people itself to provide them with the necessary information. It also has a peer educator group made up of youngsters who go to various locations to provide their peers with information on a range of issues. The organisation plans to focus more on the HIV/AIDS issue in the future. *Stichting Famia Plania* receives a modest grant from the government, but it is struggling with a shortage of staff and funding which prevents it from tackling certain problems in a structural manner.

841. As a follow-up to the free telephone helpline *Papia Ku Mi* (“Talk to Me”, which youngsters could call anonymously to ask questions about sexuality, the organisations *Dokters van de Wereld* and the Curaçao HIV Network have compiled a book entitled *Kikeshaki* (What’s This?), which answers 100 of the helpline’s most frequently asked questions. The helpline was operational for two years, and more than 1000 young people called during that time. The book has been distributed to secondary schools free of charge.

## 2. Drugs and alcohol

842. To reduce drug and alcohol use among young people, several subject areas in education include awareness-raising about the harmful effects of drugs and alcohol. For more information on the use of drugs and other addictive substances by young people, see under article 33 below.

## 3. Teenage pregnancy

843. Pregnant pupils may remain at schools run by the Central Roman Catholic School Board until their pregnancy becomes visible. From that point the pupil will be given work to do at home, and she may return to school after the birth. If the pregnant pupil is in the final year and due to take exams, the same rules apply, though she will be allowed to take her exams. At schools run by the Public Authority Schools Service, the pregnant pupil will be assisted by the school’s pupil welfare team.

844. The Kas Bruder Pius residential institution is one of three run by *Fundashon Guia, Eduká I Forma* (Guidance and Education Foundation). It provides specific assistance for pregnant girls, teenage mothers and young mothers. Its goal is to help these young girls develop a positive self-image so that they realise that they too can play a full role in the community, and be fantastic mothers. The institution runs two housing projects where young mothers can live independently and work or follow a training course.

## 4. Mental healthcare

845. The *Skuchami* (“Listen to Me”) department of the *Perspektiva i Sosten Integral* (PSI) Foundation, and the *Yuda bo yu* (“Help Your Child”) clinic for child and youth psychiatry are the main bodies providing mental healthcare for children.

846. *Skuchami*, which has a section for children and young people, has existed for a long time, but it has recently undergone a reorganisation. The department is staffed by child and youth psychiatrists, remedial educationalists, psychologists and social workers. It assists children with behavioural, emotional, psychosomatic and psychiatric problems, and provides advice on parenting. Over the past two years the PSI Foundation ran a project entitled *Ruman Mayó* (“Big Brother/Sister”) involving 230 young people aged 16 to 24. The project focused on education, parenting and leisure activities.

847. The *Yuda bo yu* clinic, part of the Capriles Clinic, Curaçao’s general psychiatric hospital, opened in October 2010. The clinic specialises in treating children and young

people up to the age of 18 who are experiencing psychiatric, emotional and behavioural problems. The clinic also target parents and other carers associated with the child. The services include diagnostics, individual therapy, group therapy, play therapy, creative therapy and counselling for parents. The clinic is staffed by child and youth psychiatrists, psychologists, creative therapists and mental health nurses.

#### **5. Breastfeeding**

848. *Stichting Famia Plania* always recommends breastfeeding, except in cases where the mother is infected with HIV/AIDS.

#### **6. Children whose mothers are in prison**

849. Further rules are currently being developed for the prison, to cater for children who live in the prison with their mother. The prison and the Guardianship Council conduct an intake interview with pregnant women in order to explore where the child might be placed, based on investigations by the Council. If there is no possibility of placing the child, it will remain with the mother for a short time. According to the Juvenile and Vice Police Squad, over the past two years a three-week-old baby had to remain with its mother in prison following a drugs-related offence. This situation persisted for only a short time.

850. Mothers who are in prison awaiting sentencing may visit their children of up to eight years of age once every two weeks at the office of the Juvenile and Police Squad. The child will generally be living in the Bruder Pius institution or with a foster family. Young babies up to the age of around six months may remain in prison with their mother, mainly for breastfeeding. After six months an attempt is made to house the child, free of charge, at Siloam child convalescent home, or otherwise in a children's home. The costs of care in a children's home are paid for by the Guardianship Council.

#### **7. Care of terminally ill children**

851. Palliative care provided by the Hamied Foundation was mentioned at III, article 12. Patients in need of palliative terminal care have their costs paid by their health insurance. One problem the Foundation faces is the persistent taboo that exists on the island, which makes people reluctant to go to the Foundation's hospice. This is particularly true when it comes to young people. The public will be offered advice and information through schools, family doctors and paediatricians, hospitals and clinics in an attempt to address this problem.

852. Siloam Village is a Protestant educational and convalescent home in Curaçao that grew out of Siloam children's convalescent home, which opened in 1997. The convalescent home offers an intimate, domestic environment for sick children (terminally or seriously ill) with complex care needs who can no longer be cared for in hospital or at home. In most cases, the children stay at the convalescent home for a short time. Children whose home situation is unsafe or destructive may also be admitted to the convalescent home to rest in a safe and peaceful setting. The Foundation receives no government grant.

#### **8. CliniClowns**

853. CliniClowns Curaçao provides a fun diversion for children suffering from an illness or disability. CliniClowns are professionally trained and work/perform one or more days a week at healthcare institutions providing medical, nursing or psychosocial care. The organisation relies on donations from private individuals, companies and service clubs.

## Article 27

### Standard of living

854. The government may award social assistance to every Dutch national over the age of majority residing in Curaçao whose circumstances are such or threaten to become such that they do not have the resources to cover their essential living costs, or who have been declared permanently incapacitated for work by an independent medical body, due to a physical or intellectual disability. An additional allowance is available for family members under the age of majority, for example. The level of both the basic social assistance and the allowance last underwent a statutory increase in 2009.<sup>64</sup>

855. One problem facing the Curaçao government is that the approach taken to poverty reduction has been so fragmented for many years. The Ministry of Social Development, Labour and Welfare is therefore currently working on a comprehensive policy. The policy will include measures to equip people to cope with their circumstances more effectively. The aim is to empower them, and give them the self-confidence to find and keep a job in order to provide for themselves.

856. Parents and carers may apply to the Ministry of Social Development, Labour and Welfare's Work and Income Service (DWI) for things like welfare benefits, a "pour peuvre" card to give family members access to medical care, clothing allowance, rent allowance, allowances for utility costs, a dispensation from waste taxes and a supplementary old age pension. The Work and Income Service also ran a poverty reduction project entitled *Nunka mas den Skuridat* ("Never in Darkness Again"), from January 2010 to June 2011. The goal of the project, organised in collaboration with the island's water and electricity supplier, was to reconnect destitute and needy DWI clients to the water and electricity network and to give them a course on budgeting and consumption, including responsible water and electricity consumption in order to prevent from being cut off in the future. A total of 375 clients in various neighbourhoods took part in the course.

857. Alongside this project, the Ministry of Social Development, Labour and Welfare has developed an awareness-raising programme entitled *Mi Ke, Mi Por* ("I Want To, I Can"), consisting of four parts:

- Budgeting and consumption;
- The importance of cooperatives;
- The importance of growing fruit and vegetables;
- Debt counselling.

The first phase of the programme took place in November 2011, and attracted 160 participants. The other phases took place in December 2011 and January and March 2012.

858. Customers' payment arrears have fallen since the introduction of prepaid electricity meters. However, some people of limited means are still repeatedly cut off. To help these people, the budgeting and consumption programmes will be repeated. More monitoring mechanisms will also be set up.

<sup>64</sup> Under the Curaçao Island Ordinance on Social Assistance, 2008. Official Bulletin 2009, no. 135.

### **Article 33**

#### **The right to protection from the illicit use of drugs**

859. Addiction care organisation *Fundashon pa Maneho di Adikshon* (FMA), which is subsidised by the government, provides both individual and group prevention programmes for young people, to make them aware of the dangers of drug and alcohol use, smoking and gambling. These education programmes range from general information provided in schools (peer education) to intensive individual sessions for youngsters who are already experimenting with these substances.

860. The peer education programme, which is under constant development, is provided at the request of schools. However, FMA will proactively approach schools that do not request its assistance. FMA also provides treatment for young people who go too far with drugs, alcohol, or gambling, or whose lives actually threaten to be impacted by addiction. Treatment is also provided both individually and in groups.

861. FMA and the school boards have drafted and implemented a policy on drugs and alcohol. It is therefore clear what rules apply in schools and institutions, and what measures can be taken. FMA also works closely with training institutes that send young people out on work placements, to prevent the placement from being jeopardised. The aim is to make young people aware at the earliest possible stage of the negative effects of a positive drugs test on their placement and their future.

862. In 2008, in collaboration with the Medical and Public Health Care Service (GGD), FMA conducted a survey of alcohol and drug use among schoolchildren aged 10 to 18. The findings are listed in the statistical appendix, at III, article 33.

## **VII. Education, leisure and cultural activities**

### **Article 28**

#### **Education, including vocational training and guidance**

863. As reported in III, article 2, all children of compulsory schooling age on Curaçao's territory have the right of access to all forms of education. When a decision is taken that may deprive a child of access to education, in conflict with the child's right to education, article 20, paragraph 1 of the Country Ordinance on Foundation Based Education provides that:

- Admission to, and suspension and expulsion from a school may not be made dependent on any financial contribution from the parents;
- Before a decision is taken to suspend a pupil for three days or more, or to expel the pupil permanently, the competent authority (the school board in this case) will listen to the views of the body responsible for monitoring attendance (the Education Inspectorate), the school attendance officer, the teacher concerned and the parents of the child. The pupil will not be expelled until the competent authority has ensured that another school is prepared to admit the pupil.

864. The previous report by the Kingdom (CRC/C/NLD/3) mentioned the "Delta Plan", which was being developed at the time. The parts of the Delta Plan that have now been implemented are listed below.

- Extension of compulsory education, which now applies from the age of four to 18, and establishment of the School Attendance Brigade to tighten up enforcement of compulsory school attendance;

- Mainstreaming and maximisation of the reach and impact of compulsory youth training for unemployed youngsters aged 16 to 24 who have left school with no qualifications. One problem is identifying these youngsters and getting them back on track, to ensure that they acquire a basic qualification, or offering them an alternative process, such as the youth opportunities programme established under the Country Ordinance on Compulsory Youth Training, which allows them to achieve a basic qualification for work.<sup>65</sup>
- Parenting support to encourage parents to become involved, focused on strengthening the resources, educational competence and skills of parents, and helping them to take an active and structured role in their child's development through participation in all relevant parenting and educational activities. One important process is umbrella organisation Rema Uni's programme to establish parent committees at all schools.
- Official multilingual education. Papiamentu, Dutch and English have been legally designated as official languages. All three are currently used as languages of instruction in schools, and they are also used by the population of Curaçao.
- Better coordination between efforts to get the young unemployed into work and the demand for qualified workers have led to the creation of a platform to maximise youth employment in Curaçao. A special centre of expertise on vocational education established by Curaçao's private sector (*Kenniscentrum Beroepsonderwijs Bedrijfsleven Curaçao*) is involved in this process.

## Article 29

### Aims of education

865. The innovations in education introduced by the government over the past few years have been designed to raise standards. The primary goal of education is to ensure that all children receive the education to which they have a right, and that as young adults they attain at least level 1 of secondary vocational education by way of a basic qualification.

#### 1. Drop-outs

866. Curaçao has laws on compulsory education and compulsory youth training. Since non-compliance with either may signal the start of a criminal career, in 2008 a special "brigade" was established to monitor compliance with both. Headed by an experienced police officer, the brigade receives reports of absenteeism from school or youth training programmes. Sanctions for first offenders include being taken to school by one of the members of the brigade, with the permission of the parents.

867. Students who drop out of school or are at risk of doing so out receive structural guidance and the necessary psychosocial and financial help through a special programme set up specially to deal with the school drop-out problem.

868. The compulsory youth training programme for school drop-outs aged 16 to 24 gives young people a second chance to educate themselves and acquire skills that will enable them to find a job. A certificate is awarded on completion of this vocational programme. The youngster then has a basic qualification ("assistant worker"), which he or she can use to acquire further skills. Youngsters are also offered a programme designed to help them become self-reliant; this does not lead to an official qualification.

<sup>65</sup> Country Ordinance on Compulsory Youth Training, Official Bulletin 2005, no. 72.

869. The youth training programme is partly funded by the government. The rest of the funding comes from development assistance. It has been found that some 30% of youngsters who complete the programme find work, and that 15% return to mainstream education. The goal is to increase the success rate from 45% to 75% over the next few years.

## **2. Language of instruction**

870. With the introduction of Foundation Based Education, Papiamentu, the mother tongue of the majority of the population, was also introduced as a language of instruction. The language of instruction in secondary schools is Dutch. Schools for primary and early secondary education may choose which languages of instruction they wish to use. They may select from: 1) Papiamentu; 2) Dutch; 3) bilingual model (Papiamentu/Dutch). Schools are also obliged to ensure that education takes as much account as possible of pupils' mother tongue, if this is different from the language(s) of instruction.

### **Article 30**

#### **The right to one's own culture, to profess and practise one's own religion, and to use one's own language**

871. The law stipulates that public authority schools must be accessible to all children, irrespective of religion or belief. Public authority schools must provide education with respect for everyone's religion or belief. The Country Ordinance on Foundation Based Education also stipulates that pupils must participate in all educational activities. However, a pupil may be excused from educational activities on religious grounds.

### **Article 31**

#### **Leisure, recreation and cultural activities**

872. *Fundashon Desaroyo i Progreso* (Development and Progress; FDP) provides government-subsidised after-school care. The organisation coordinates after-school non-formal education programmes at 23 schools in several districts. The aim is to add another two schools every year. The government now also subsidises a few private after-school care providers, as well as a number of organisations that run activities for children in the summer holidays.

873. Sports umbrella organisation Sedreko organises a range of sporting activities for children in various age groups every July, as part of its summer holiday activities. Sedreko also organises sporting activities in local communities throughout the year, supports and subsidises sports clubs and foundations, and has 12 sports leaders who work in schools. It is also responsible for the preparation of athletes participating in the Special Olympics.

874. Curaçao Cultural Centre (CCC) has signed a contract with the government to provide group and individual music and art lessons for pupils. Children whose parents are unable to pay the fee may qualify for a scholarship, if they are sufficiently motivated. As reported in VI, article 23, the centre teaches both physically and intellectually disabled pupils, either individually or in groups, alongside non-disabled pupils.

875. Non-profit organisation Artefama Productions organises, promotes and stages performances and other artistic and cultural activities for the entire family. It also provides advice and information on art and culture for young people (and their parents) by organising workshops, giving presentations to companies, private individuals, schools and institutions, and through other activities. Artefama Productions also sets up and promotes national and international exchange programmes between young artists. Every year, the

organisation gives concerts at secondary schools, and in 2009 it set up a youth band for children aged 5-15.

876. Youth theatre workshop La Tentashon provides youth drama activities, and now runs La Tentashon Performing Arts. Youngsters, mainly between the ages of 10 and 17, can take part in a range of short-term dance, singing and drama projects that the organisation runs every year. Each project runs for approximately three months, and participants receive the necessary artistic training beforehand. Since 2009, the organisation has run the “Word Speak” exchange programme every two years, in collaboration with partners in the United States. The programme focuses on creative use of language.

877. Circus school CircoMagik, part of the Curaçao Youth Art Foundation, is open to all children. The school provides lessons in circus arts, dance and drama, in the age groups 5 and 6, 7 and over and teenagers. The lessons take place at a school, as an after-school activity. The circus school is not subsidised by the government.

## **VIII. Special protection measures**

### **A. Children in emergency situations**

#### **Article 22**

##### **Refugee status**

878. The situation concerning the Kingdom of the Netherlands’ reservation in respect of the ratification of the Convention relating to the Status of Refugees (Geneva, 28 July 1951) remains unchanged. The Convention has not been ratified by Curaçao, nor does the country have any national legislation on refugees. Curaçao has no asylum legislation, and receives only occasional asylum applications.

879. There are however children living in Curaçao unaccompanied or separated from their parents, outside their country of origin. Some parents have a child in Curaçao and leave it behind, or a child might enter the country with one or both of their parents and subsequently be left behind on the island.

880. The Guardianship Council is responsible for the care of these children. If, as a result of abuse or neglect, they end up with the Family Supervision Agency under a supervision order, a family supervisor is automatically appointed, and the child will be placed in a children’s home or foster family. The residence status of the child — whether it is on the island legally or illegally — has no bearing on the issuing of supervision orders.

881. The Family Supervision Agency has a range of problems providing optimum care and protection for these children, since each case is unique. Sometimes the country of origin is “pleased” that the child is living in a relatively prosperous country, and fails to cooperate with efforts to trace or identify the parents. As a result, these children reach the age of majority without ever having acquired legal residence status, or any clarity as to their status in their country of origin.

#### **Article 38**

##### **Rules of international humanitarian law applicable to children**

882. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 25 May 2000 entered into force throughout the Kingdom on 24 October 2009, and has been applicable to Curaçao since 10 October 2010.

Curaçao's initial report on the Optional Protocol was submitted to the Committee on the Rights of the Child on 30 December 2011.

## **B. Children and the criminal justice system**

### **Article 40**

#### **Application of juvenile criminal law**

883. The introduction of new penalties for juvenile offenders means that detention is no longer the only option.<sup>66</sup> The provisions of both the CRC and the Council of Europe's European Prison Rules were taken into account in determining the new options.<sup>67</sup> One of these options is the new order for detention in a youth protection and custody institution,<sup>68</sup> replacing the old order which had fewer safeguards. Youth detention is also new, giving the court the option of setting a range of individual requirements for young offenders.<sup>69</sup>

#### **1. Legislation**

884. Title X of the first book of the Criminal Code contains special provisions for young persons. Juvenile criminal law in the new Criminal Code includes the following:

- Community service (HALT);
- Placement in a youth protection and custody institution (PIJ), reviewed by the court every two years;
- Behavioural therapy order;
- Community service and training orders;
- Abolition of life imprisonment for young offenders.

More specific information on these points can be found under articles 37b-d and 37a.

#### **2. Age limits for application of juvenile criminal law**

885. The age of criminal responsibility and the minimum age for application of juvenile criminal law are laid down in the Criminal Code. Deviation from these limits is not permitted. Minors under the age of 12 cannot be prosecuted in a criminal court, because of the irrefutable presumption that they are not legally responsible. If necessary, a children's judge may issue a supervision order appointing a family supervisor in civil proceedings.

886. The maximum age limit for the application of juvenile criminal law is 17, though a court may decide to make an exception for 18- to 21-year-olds. Article 1:159 of the Criminal Code gives the court the option of applying juvenile criminal law to youngsters in this age group, depending on the personality of the offender or the circumstances in which the offence was committed.

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<sup>66</sup> Title X, Criminal Code: Special provisions for young persons, §3 Sentences and Orders.

<sup>67</sup> Recommendation Rec. (2006)2 of the Committee of Ministers to member states on the European Prison Rules.

<sup>68</sup> Article 1: 174, Criminal Code.

<sup>69</sup> Article 1: 165, Criminal Code.



### **3. Questioning a minor**

887. Since mid-2010 all minor suspects have been entitled to pro bono legal advice from a lawyer prior to and during questioning by the police. Questioning always takes place at the office of the Juvenile and Vice Police Squad, which has special child-friendly rooms for the purpose. Video recordings are always made of interviews with children aged 12 and under, and children with an intellectual disability. A detailed record of the interview is also drawn up. The public prosecutor may also decide to seek the opinion of a psychologist. Video interview rooms are mainly used to question underage victims of sex offences in a child-friendly manner.

888. A parent, carer or confidential advisor should always be present when a child makes a statement to the Juvenile and Vice Police Squad. If no one can be reached, the public prosecutor must be contacted, who will order that the lawyer be informed of the situation. The lawyer may then decide to send someone to accompany the child. The Juvenile and Vice Police Squad has six hours to take a statement. The child must be remanded in police custody within six hours. If the arrest takes place in the evening, the six hours commence at 8 am the next day.

889. In 2011 three vice squad detectives from the Juvenile and Vice Police Squad went to Aruba to train in video interviewing techniques. Staff at the squad will also take special courses on forensic examinations in sex crime cases, and on sexual offences and young people.

### **4. Other child-friendly procedures**

890. In the interests of minor children, in accordance with article 489 of the Code of Criminal Procedure, the parents or guardian are always invited to attend their court hearing. Parents or guardians are also invited to make statements that can be used in the child's defence after the defendant, a co-defendant, witness or expert witness has made a statement.

891. Children who do not speak or understand the language used in the criminal justice system have a right to the free services of an interpreter. Hearings are held in a courtroom on the ground floor of the court building to allow access for both adults and children with a physical disability.

### **5. Protecting the privacy of the child**

892. If a defendant or co-defendant is under the age of 16 when criminal proceedings commence, the law stipulates that the hearing may not be held in public. Trials involving minors aged 16 or over will be held in open court, unless there are compelling reasons not to do so. Journalists who violate a child's right to privacy may be sued under article 6:162 of the Civil Code in the civil courts on the grounds of a wrongful act. The plaintiff may seek a declaratory judgment, a ban, or the award of damages for pain and suffering or compensation. Although the rule at youth institutions is that the media may not be given access in order to interview or photograph youngsters, particularly minors, photographs and film of minor suspects do sometimes appear in the newspaper or on television.

893. NGOs play a crucial role in the prevention of juvenile crime and the implementation of juvenile criminal law. They have a preventive role, caring for and offering guidance to young people at risk, and some sentences imposed on youngsters are also implemented via NGOs. Government subsidies are available to encourage NGO involvement.

## **Article 37a**

### **Torture or other cruel, inhuman or degrading treatment or punishment**

894. With the advent of the new Curaçao Criminal Code in 2011, the death penalty — which was already a dead letter — was explicitly removed from the statute books. Nor may a child below the age of 18 be sentenced to life imprisonment.<sup>70</sup> For more information on article 37a, see IV.

## **Article 37 b–d**

### **Children deprived of their liberty**

895. Children who break the law will be deprived of their liberty if they have committed a serious criminal offence or if they are a repeat offender. The maximum duration of youth detention is explicitly stated in the Criminal Code. The most severe penalty that may be imposed under juvenile criminal law is 24 months' youth detention or, in serious cases, four years' youth detention.<sup>71</sup> This penalty may be imposed on 16- and 17-year-olds and on individuals above the age of majority who had not yet reached the age of 21 at the time of the offence. The maximum fine that may be imposed under juvenile criminal law is ANG 5,000.<sup>72</sup>

896. The law also explicitly stipulates conditions pertaining to placement in a youth protection and custody institution, including the maximum duration of such a placement, extension of the order, and the possibility for appeal.<sup>73</sup> A court may order placement following a signed, dated recommendation to this effect from one or more behavioural experts who have examined the individual in question, stating the grounds on which the recommendation was made, and only if the following cumulative conditions are met:

- The offender must have committed an offence for which pre-trial detention is allowed;
- The safety of others or the general safety of individuals or goods require that such an order to be issued; and
- The order is in the interests of the offender's further development.

897. An order placing the offender in a youth protection and custody institution may also be issued if the offender cannot be held fully responsible for the offence committed because his or her mental faculties are inadequately developed or pathologically disturbed. In such cases, the behavioural expert whose advice is sought must be a psychiatrist.

898. Young offenders are placed in a youth protection and custody institution for two years, with a possibility of a further 24-month extension. Minors suffering from diminished responsibility may have their placement extended to a maximum of six years.

899. The Juvenile and Vice Police Squad has holding cells where youngsters may be held for up to two days for questioning, though they must be moved to the *Gouvernement Opvoedingsgesticht* overnight. After questioning, the public prosecutor will decide whether the youngster is to be held for one or two days. The public prosecutor may extend the period of provisional arrest, but only in the event of a very serious crime.

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<sup>70</sup> See also I, reservation to article 37c.

<sup>71</sup> Article 1:165, paragraph 1b, Criminal Code.

<sup>72</sup> Article 1: 162, paragraph 2, Criminal Code.

<sup>73</sup> Article 1: 174, Criminal Code.

900. If convicted, a young person below the age of 16 may be placed in the *Gouvernement Opvoedingsgesticht*. Youngsters aged 16 and over are placed on the young adults wing of the prison, but only as a last resort. Alternatively, youngsters may be detained at a police station which has overnight accommodation. Any youngster below the age of 16 who has to be sent to prison will be placed on the Forensic Observation and Counselling Wing (FOBA). See also I, article 37c.

## 1. **Gouvernement Opvoedingsgesticht (GOG)**

901. After questioning, the police, public prosecution service or Guardianship Council may refer a youngster to the *Gouvernement Opvoedingsgesticht*. If the youngster displays highly challenging behaviour, he or she will be transferred to the Brasami Institute's secure unit, but only if an order for remand in police custody has been issued. The period in the secure unit being decided upon by the public prosecution.

902. The *Gouvernement Opvoedingsgesticht* detains youngsters for a maximum of three days if legal proceedings are progressing satisfactorily. An evaluation will be conducted before any extension is granted. Before the *Gouvernement Opvoedingsgesticht* decides to detain a youngster below the age of 16, alternative sanctions such as extra chores, extra mentor counselling sessions, extra training, garden duties and exclusion from activities outside the organisation will first be considered. These youngsters are guided and supported in such a way that they become aware that their behaviour must change, and they accept that they need extra help. However, they may not be helped (voluntarily or otherwise) without the consent of their parents. Some youngsters are also ordered to take "time out", particularly if they are under the influence of drugs, or are aggressive and cause harm to themselves and others.

903. A young person who refuses assistance or treatment cannot be forced to accept either. For example, if pupils refuse to attend school, they must continue to receive support, or another way of providing them with the necessary education must be found. If a young person refuses to take medication, he or she cannot be forced to do so. Both the young person and/or the parents/carers may refuse either assistance or treatment. In such cases trained staff will explain what the consequences may be of refusing medication.

904. Youngsters who have been placed under a supervision order by the Guardianship Council may remain in the *Gouvernement Opvoedingsgesticht* until they turn 18. Youngsters under a treatment order may remain there until they turn 21.

## 2. **Opportunities during detention**

### (a) **Education**

905. All youngsters detained at the *Gouvernement Opvoedingsgesticht* must participate in education, either internally or externally. If a student has been suspended from school or is in detention, the school will sometimes approach the Juvenile and Vice Police Squad with a request for the child to take tests at the offices of the squad, to prevent them from falling behind. A separate room is available for this purpose. This occurs only on the initiative of schools.

906. In prison, young offenders aged 16 to 24 take part in the compulsory youth training programme laid down in national law.<sup>74</sup> This gives them the opportunity to combine work and study on a 24-month programme, in order to gain skills to equip them for the labour market or for further training.

<sup>74</sup> Country Ordinance on Compulsory Youth Training, Official Bulletin 2005, no. 72.

**(b) Sport and leisure activities**

907. At the *Government Opvoedingsgesticht* all youngsters have a personal coaching plan which sets out what type of activities they must take part in. In prison, young people have the right to take part in weekly sports activities run by two in-house sport leaders.

**(c) Medical care**

908. All young detainees, both in prison and in the *Gouvernement Opvoedingsgesticht*, receive medical care when necessary. This includes addiction care.

**(d) Contact with family and friends**

909. At the *Government Opvoedingsgesticht*, youngsters may call or receive a call from their parents twice a week, and they must visit their home at least once a month to strengthen their family ties. In prison, youngsters have the right to visits from relatives, which are arranged via the prison. Each block receives visits on a specified day.

**(e) Views and complaints**

910. At the *Gouvernement Opvoedingsgesticht* youngsters can turn to their mentor, the head of their unit, the social worker, education coordinator or director if they have any complaints, or to voice their opinion on certain matters. In prison they may make their views and complaints known in a petition or by reporting them to the head of their wing. There is also a complaints office. Young offenders may also air their views and any complaints at the six-monthly evaluation sessions they attend with their parents and the public prosecutor in charge of their case.

**3. Inspection of institutions where young offenders are held**

911. The holding cells of the Juvenile and Vice Police Squad are monitored for compliance with international standards once every six months. Under the new Criminal Code, a complaints committee must be established to inspect young offenders' institutions. The inspections will include confidential interviews with young inmates.

912. The Criminal Code includes a number of alternative sanctions that may be imposed on young offenders in lieu of detention. This both prevents minors from being locked up in an unfamiliar environment and prevents them from having to miss school or other activities.

- 1:161 community service (HALT) project

This article gives the police the option of not submitting an official report concerning an offence committed by a minor (to be defined in a country decree containing general provisions). Participation in a community service, or HALT, project is sufficient to prevent the official report from being submitted to the public prosecutor. The minor may be ordered to spend up to 20 hours participating in the project. According to the explanatory memorandum, eligible offences may include minor cases of street violence (particularly violence against property, arson causing general risk to property, theft and shoplifting, unlawful appropriation, vandalism and receiving stolen goods). Failure to comply with the rules on compulsory education (absence from school without leave) may also be considered for inclusion.

- 1:162 juvenile settlement penalty — “Public prosecutor’s model”/TOM)

The general settlement penalty provided for in article 1:149 is applicable in juvenile criminal law. In accordance with article 1:149, prior to the hearing the public prosecutor may set one or more conditions to prevent the minor from being

prosecuted for an offence carrying a prison sentence of no more than six years, such as offences under the Opium Act and minor offences. Under juvenile criminal law, the public prosecutor may however set additional special conditions:

- Up to six months' supervision by the youth probation service;
  - A settlement penalty of up to ANG 5,000;
  - Unpaid work/work to repair damage caused/training order of up to 60 hours, within a period of no more than three months.
- 1: 177-179 Behavioural therapy order

Such an order may be issued if the nature of the offence, the number of offences committed, earlier convictions, or the defendant's problems warrant it, and the order is in the best interests of the defendant's development. The advice of a behavioural expert must be sought. The defendant may be ordered to participate in a residential programme at an institution designated by the court, or to attend an outpatient programme under the supervision of an organisation designated in the court judgment. The order will apply for a minimum of six months and a maximum of one year. In its judgment (and on extension, where applicable), the court will set out the custodial sentence to be executed if the offender does not comply with the order (default sentence). The court may, on the recommendation of the youth probation service, terminate the behavioural therapy order at any time, either conditionally or otherwise. The court may also amend the order.

If the offender fails to comply in full with the order, the public prosecutor may order that he or she serve the default custodial sentence in youth detention. The offender may submit a notice of objection to the court within 14 days of notification to this effect. The public prosecutor may apply to the court once for the order to be extended by the same period as the original order. The advice of a behavioural expert must be sought prior to any extension. An appeal may be submitted against any decision given under article 1:179.

- 1: 180-186 suspended sentences

Youth detention orders, community service orders (not training orders), fines and additional penalties may be suspended for a maximum of two years. The general and special conditions provided for under adult criminal law apply *mutatis mutandis* in juvenile criminal law.

- 1: 169 alternative sanctions (community service orders and training orders)

A community service order, a training order, or a combination of the two may be imposed on offenders. The duration of a community service order may not exceed 200 hours, to be completed within six months if the order is for up to 100 hours, and otherwise within a year. The maximum duration of a training order is also 200 hours, which must be completed within a maximum of six months. The maximum duration of a combined order is 240 hours.

The Public Prosecution Service may extend this period once by the same number of hours. The court will specify in its judgment a default custodial sentence in youth detention of up to four months.

913. The Guardianship Council's Youth Probation Service is responsible for making preparations for and providing support and guidance during the implementation of community service and training orders. The Public Prosecution Service may, after consulting the Youth Probation Service and the offender, change the details of the order

(though not the number of hours) if the offender is unable to complete it. The offender may submit a notice of objection to the court within 14 days of notification to this effect.

914. In the event that the community service order or training order is not completed, the public prosecutor may, within three months of the end of the period in which the order should have been completed, order the offender to serve the default sentence. The offender may submit a notice of objection to the court within 14 days of notification to this effect.

### **Article 39**

#### **Special care for victims of crime**

915. To help former young offenders and support their efforts to reintegrate into society, the *Gouvernement Opvoedingsgesticht* offers them education/training to help prepare them for the labour market. Companies are actively approached and informed, in order to find jobs for young offenders. To make society aware of their rights, and to give them a second chance, the youngsters are given the right after a period of internal counselling and protection, to attend public events under supervision. They are then able to participate in activities where they can demonstrate their talents, and publicise them via the media.

## **C. Children in exploitative situations**

### **Article 32**

#### **The right to protection from economic exploitation, including child labour**

916. Although there are no legal obstacles to ratifying ILO Conventions No. 182 and No. 138, a shortage of manpower at the Ministry of Social Development, Labour and Welfare has delayed the start of the ratification process. In collaboration with the Ministry of Education, Science, Culture and Sport, this Ministry will have to prepare the ground for the process. In the meantime, part of ILO Convention No. 182 has already been implemented through the provisions of the Curaçao Criminal Code criminalising child prostitution, child pornography, begging, and unhealthy and dangerous work performed by children.

917. Under the Labour Regulations (2000), putting children to work, with or without pay, and with or without an employment contract, is still banned. However, “children” are still defined as “persons who have not yet reached the age of 15”. The Country Decree on the Minimum Youth Wage does not however refer to 15-year-olds.<sup>75</sup> The first age group for which a minimum wage is defined is 16/17-year-olds. The Labour Regulations 2000 also include a ban on night work and hazardous work for young people. Young people are defined as “persons who have reached the age of 15, but have not yet reached the age of 18”.

### **Article 33**

#### **The right to protection from the illicit use of drugs**

918. For more information, see VI, article 33.

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<sup>75</sup> Country Decree applying article 8, paragraph 2 of the Country Ordinance on the Minimum Wage (Official Bulletin 1972, no. 11); Official Bulletin 1993, no. 72.

## Article 34

### The right to protection from sexual exploitation and sexual abuse

919. In addition to the government-run Central Registration and Referral Centre for Child Abuse (CMK), whose purpose is to investigate, coordinate and register cases of child abuse and, if necessary, refer cases to the relevant professionals, the Criminal Code makes it an offence to engage in acts of prostitution with minors (subject to a maximum prison sentence of six years) or in child pornography (a maximum of four years' imprisonment).<sup>76</sup> Other provisions of the Criminal Code that are relevant in this respect are those concerning "grooming", which is defined as enticing minors into meeting with an adult with the intention of committing indecent acts with them, and those concerning human trafficking of minors, for which a prison sentence of up to nine years can be imposed.

920. The Juvenile and Vice Police Squad is responsible for investigating sexual offences. If the offence has occurred in the victim's home, the child may not return there. The Guardianship Council is then responsible for obtaining a care order from the court. In cases of sexual abuse, the preference is for the child to be placed with a foster family, in order to offer it more order and stability.

921. It is more difficult to tackle the abuse of boys, as they are less inclined to talk about it. In order to better protect them, education campaigns are being conducted to teach boys that no one may touch them inappropriately and that, if such a thing does happen, they should tell someone.

922. For more information, see V, article 19.

## Article 35

### The right to protection from abduction, sale or trafficking

923. The new Criminal Code not only explicitly makes people smuggling a criminal offence,<sup>77</sup> Title XVII also criminalises human trafficking, distinguishing between adults and children. Specific measures have thus been laid down in the Criminal Code for the protection of children.<sup>78</sup>

924. Anyone who intentionally and unlawfully conceals a minor who has been removed, or has absconded from the authority under which he has lawfully been placed, or from the supervision of the person authorised to exercise supervision, or who impedes the efforts of the criminal justice authorities or police officers to find him, is liable to a prison sentence not exceeding three years, or a fourth-category fine or, if the minor is under the age of 12, a prison sentence not exceeding six years or a fifth-category fine.

925. Finally, anyone who takes away a minor with his consent, but without the consent of the person who by law exercises authority over him, with the intention of securing the minor's possessions, is guilty of abduction and liable to a prison sentence not exceeding six years or a fifth-category fine. If the minor is abducted by means of deception, violence or threat of violence, a prison sentence not exceeding twelve years or a fifth-category fine may be imposed.

926. The government bodies involved in the anti-trafficking task force have been joined by a number of NGO partners, including the Council of Churches, the Red Cross, the local

<sup>76</sup> Article 2: 196, Criminal Code.

<sup>77</sup> Article 2: 154, Criminal Code.

<sup>78</sup> Articles 2: 246 to 2: 248, Criminal Code.

branch of Amnesty International, the Center for Women's Development, the Bureau of Women's Affairs and several children's welfare agencies.

### **Article 39**

#### **The right to physical and psychological recovery and social reintegration**

927. The government has several agencies that oversee the general wellbeing of children. The Guardianship Council acts on behalf of children who are victims of violence. After reporting by the Guardianship Council, a court will appoint a guardian to oversee the protection and recovery of the victim. The court-appointed guardian will be a paid employee or volunteer from the Family Supervision Agency (GVI). The government also subsidises foster care for children who cannot remain in the parental home because of the situation there. The government is also involved in a foster parenting project which receives SEI funding. Parents participating in the project receive training and guidance in how to deal with children who are victims of abuse.

## **Part five St Maarten**

### **Introduction**

928. The report St Maarten submitted is in compliance with article 44, paragraph 1 (b) of the Convention on the Rights of the Child, which entered into force for the Kingdom of the Netherlands in respect of the autonomous country St Maarten on 16 January 1998, when it was ratified by the Netherlands Antilles. The general guidelines regarding the form and content of periodic reports (CRC/C/5) have been observed as far as possible. The report covers the period from 2007 to 2012. It provides an update on issues addressed in the Initial Report CRC/C/NLD/3.

## **I. General measures of implementation**

### **A. Measures taken to ensure compliance of the law and policies of St Maarten with the provisions of the Convention**

929. The Committee expressed concerns that national legislation, including the new Civil Code of the Netherlands Antilles (*Nieuw Burgerlijk Wetboek van de Nederlandse Antillen*), and family law, does not fully comply with the Convention on the Rights of the Child.

#### **1. Amendments to the Civil Code**

930. The Parliament of St Maarten unanimously adopted the amendment to Book 1 of the Civil Code which brought into effect the declaration of paternity. This amendment builds on the 2001 amendment to the Civil Code, which makes provision for fathers to acknowledge without impediment children born out of wedlock and is thus in keeping with international human rights standards relating to the right to a family life. Under the same amendment, children born out of wedlock whose father does not acknowledge paternity now have the right to have their father's name entered on their birth certificate. The Ministry of Justice will carry out an awareness-raising campaign to help the public understand the ramifications of the amendment.



## 2. Compulsory education

931. In 2009, St Maarten enacted the amended National Ordinance on Compulsory Education, passed by the Netherlands Antilles in 2008, making school compulsory for all young people between the ages of four and 18 (Official Bulletin 1991, no 85).

## 3. Youth Care policy framework

932. A draft Ordinance based on the Youth Care policy framework was finalised on 25 February 2008. However, due to the dismantling of the Netherlands Antilles, it was never ratified by the Parliament of the Netherlands Antilles. The draft Ordinance is now under review and will be adapted to the situation on St Maarten. It will serve as a basis for amendments to the Civil Code relating to the Central Registration System for Child Abuse, which is currently being debated in Parliament.

933. As mentioned in the last report, the Support to the Netherlands Antilles Youth Development Programme (SNAYDP) provided support to organisations that participated in Good Governance workshops. In cooperation with the NGO sector, youth representatives and the St Maarten Youth Council, a tailor-made Good Governance training course was devised for staff members of 20 leading NGOs in the field of youth development. Good Governance Manuals were also supplied to all interested NGOs active in the field of youth development.

934. SNAYDP also provided leadership training for 30 new volunteers in youth organisations and for board and staff members of four youth organisations. The St Maarten Youth Council coordinated the training.

935. In 2007, SNAYDP funded a workshop by the Zeus Foundation in which local NGOs could enhance their skills in writing project proposals. Participants were subsequently able to apply for funding from donors such as AMFO (*Stichting Antilliaanse Medefinancierings Organisatie*). NGOs and Governmental organisations received copies of documents published by SNAYDP such as the Good Governance Manual, the Delta Plan, Compulsory Education, and the Jobseekers Manual and Trainers Toolkit.

## 4. Integrated Youth Policy

936. In 2006, the Government of St Maarten approved the Integrated Youth Policy (IYP), which was drafted with the support of SNAYDP. Priority youth projects compatible with this policy were selected and supported. SNAYDP Technical Assistance priorities in support of youth policy implementation were also identified.

937. A Logical Framework workshop was conducted defining IYP, and a publication summarising and promoting the policy was issued to all stakeholders, and made available to young people. An IYP promotion campaign was also organised. This comprised half a day of discussions among stakeholders and experts and half a day of public awareness-raising by means of a dynamic, interactive event in the centre of Philipsburg, which was broadcasted live on local television. Another IYP promotion campaign targeted more than 800 students. In February 2007, SNAYDP funded the drafting of an action plan for the implementation of the IYP. This action plan was discussed with various stakeholders and presented at a donor conference.

## 5. NGO Networking & Mobilisation

938. A Youth Council platform was set up under the leadership of the Zeus Foundation to assist local NGOs in networking and to improve social development in St Maarten. This led to an exchange of information between Windward Island Adult Vocational Education

(WAVE) and the St Maarten Vocational Training School on training programmes and the conclusions of the IMD Consultancy on the school.

## **B. Measures taken or envisaged to make the Convention's principles and provisions widely known to adults and children alike**

939. In January 2008, the Directorate of Youth Affairs of the former Netherlands Antilles presented a Rights of the Child communication plan which was disseminated throughout the islands. The plan included awareness campaigns encompassing various programmes for the annual celebration of the rights of the child. St Maarten has participated in the following programmes: an art competition on the articles of the Convention; a Children's Island Council meeting where key articles of the Convention were debated; the 2009 Youth Parliamentarian meeting; posters outlining the articles of the rights of the child displayed in the public library, and in primary and secondary schools. Each year, the celebrations revolve around a particular theme.

### **1. New developments in monitoring the Convention**

940. The Directorate of Youth Affairs was responsible for monitoring and enforcing observance of the rights of the child. However, after the change of constitutional status, St Maarten now has to ensure that measures are taken to monitor the Convention.

941. The Government of St Maarten has ensured that within its organisational structure there is a policy Department for youth affairs charged with responsibility for monitoring the Convention.

942. The St Maarten Youth Council was set up in 1985 and continues to function. This NGO is still officially recognised by the Government as the youth organisations' umbrella organisation. It is also involved in programmes in which it collaborates with the Government's youth affairs Department.

### **2. Funding for the Rights of the Child**

943. In response to the Committee's recommendation to implement article 4 of the CRC effectively, the Government of St Maarten has allocated both financial and human resources to safeguard the rights of the child and ensure observance is monitored. These resources are distributed among the three key Ministries, i.e. the Ministry of Education, Culture, Youth and Sports Affairs, the Ministry of Justice and the Ministry of Healthcare, Social Development and Labour.

944. The Ministry of Justice funds the Family Supervision Agency and the Probation Service on St Maarten. St Maarten enacted the transferred Antillean legislation and adopted policies and procedures to facilitate the necessary support for any child experiencing abuse and/or neglect.

945. In relation to the draft Youth Care Ordinance, a study was completed with the objective of creating a procedure for continuous care within the Youth Care policy framework. The results are currently being reviewed by a committee of representatives of the various Ministries responsible for youth care.

## II. Family environment and alternative forms of care

### 1. Funding foster care

946. St Maarten also sought to develop a framework of minimum standards for residential and foster care. Provision of care in residential and foster homes is currently administered by various Ministries, i.e. the Ministry of Justice, and the Ministry of Healthcare, Social Development and Labour.

947. Prior to 10 October 2010, the Government of the Netherlands Antilles was responsible for providing residential and foster care on St Maarten through the Court of Guardianship (CoG).

948. The Court of Guardianship / Stichting Justitiele Inrichtingen Sint Maarten (SJIS) was and still is responsible for reviewing the living conditions and social situation of foster children, preparing the relevant reports, bringing cases to court, making recommendations and placing children in residential and foster care. It may act on the basis of a court order under Book 1, chapter 14 of the Civil Code on family law and the law of persons. Up to the change in constitutional status, residential facilities received ANG (Netherlands Antilles Guilders) 500 per child while foster families received ANG 225.

949. In order to ensure optimal care for the children, the Government of the former Island Territory of St Maarten approved an extra grant on the basis of general Ordinance AB1998, 34. The Education Sector of the former Department of Social Cultural Development, (now the Ministry of Education, Culture, Youth and Sports Affairs) coordinated and implemented this supplementary grant of ANG 1,000. Since the change in constitutional status, tasks relating to grants have been transferred to the Department of Social Development of the Ministry of Healthcare, Social Development and Labour.

950. In 2009/2010 the Department of Youth Affairs commissioned an analysis of residential and foster care. One of the subsequent recommendations was the need for more research to get a clear picture of the situation on the island. The Department of Youth Affairs followed up on the analysis and a framework was finalised by HPS Consultancy in July 2010.

951. The main objective of the framework was to establish criteria with which the quality of the programmes and services provided can be monitored and measured. These criteria will also ensure that quality care is made available to the target population, providing a safe environment. The framework also indicates the approach the Government should take to ensure quality care for children and young people in the residential and foster care system, and sets out terms and conditions. Within the framework, the minimum standards are formulated that care-providers — current and future residential and foster/group homes and foster families — need to comply with to be eligible for Government funding/grants. In future, foster/group homes and foster families might also have to comply with the minimum standards to obtain an operating permit or a certificate of approval. The framework has been submitted to the relevant Ministers for approval.

### 2. After-school care

952. The Government of St Maarten continues to subsidise after-school care for primary and secondary school pupils, which is organised by four different institutions. The contribution of a maximum of 30% of the total costs has remained on the budget and the implementing organisation and the users continue to pay the rest. In 2007, the Government also commissioned the Community School Pilot Programme in five Schools for Foundation-Based Education (F.B.E). This programme also received a contribution from

Dutch development funds in the 2007–2010 period, but is now funded entirely by the Government of St Maarten.

953. The Government of St Maarten continues to support various NGOs such as an organisation providing parenting support and professional development for day-care centre and youth leaders, Youth Community Centres, arts & dance foundations and a number of programmes designed to encourage cooperation between schools and help young people enter the employment market. Over the last 5 years the amount earmarked annually for socio-cultural development has increased to over ANG2 million.

954. Education receives more than ANG 50 million annually. Almost ANG 1 million goes to the healthcare sector for mainstream youth health care, a baby clinic, a dental plan for children and youth-related HIV/AIDS projects.

### **3. Data collection**

955. In the last report, the Committee recommended that the State party systematically collect disaggregated data incorporating all the areas covered by the Convention and covering all children under 18, with specific emphasis on those who are in need of special protection and including children within the juvenile justice system.

956. It also recommended that the State party develop indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. Technical assistance could be sought from, among others, UNICEF.

957. As part of the Youth Monitor, the Directorate of Youth Affairs of the Government of the former Netherlands Antilles conducted interviews every 2 years with young people between 12 and 24 years of age. The last Youth Monitor was conducted on St Maarten in 2007. St Maarten's Youth Affairs Department contacted the former Inter-ministerial Programme for Youth and Families in the Netherlands with the objective of establishing and internship programme that would train the staff members to carry out the Youth Monitor programme. The aim is for this to take place in 2012.

958. The Government of St Maarten agreed that UNICEF would conduct an analysis of the situation of the young people/children and young women of the island. This process commenced in April 2011, preliminary reports were drafted and the island is awaiting the final report.

### **4. Protocol document outlining steps in responding to reports or observations of child abuse**

959. St. Maarten does not as yet have a Central Registration System (CRS). The Ministry of Healthcare, Social Development and Labour developed a protocol document outlining the procedure related to responding to reports or observations of child abuse, indicating levels of urgency and the transfer or referral of cases to the appropriate agency and/or responsible authority. Within the Collective Prevention Services (CPS), the Youth Health Care section (YHC) acts as an identifier and facilitator in documenting and reporting child abuse cases. Implementation of the protocol is expected to take place in stages.

960. The protocol also functions as a working tool to promote transparency in the methods used by YHC in responding to incidents of child abuse in its target group, birth through 17 years of age. It has been distributed as such within the Ministry of Healthcare, Social Development and Labour and to all local stakeholders responsible for youth. The protocol is a working document which will be amended in accordance with input from management, staff and stakeholders. The sole purpose of any amendment will be to ensure proper management of child abuse cases and to create structural opportunities for

collaboration between agencies and platforms with a view to preventing child abuse. The protocol cannot be considered an end product as it needs to be continuously discussed, evaluated and amended to include new developments pertaining to child abuse reporting procedures. Compliance with professional codes of conduct for physicians, nurses, psychologists, and other care providers is a continual requirement.

961. To ensure the efficiency and effectiveness of this protocol, there is a need for collaboration between the relevant Ministries, i.e. the Ministry of Healthcare Social Development and Labour, the Ministry of Justice and the Ministry of Education, Culture, Youth and Sports Affairs. It will take some time for a detailed, comprehensive response to be given as the protocol concerns responsibilities and accountability.

## 5. Programme on new opportunities for vulnerable youth and young adults

962. In February 2006, the National Ordinance on Compulsory Training (*Landelijke Verordening Sociaal Vormingsplicht*) came into effect on all the islands of the former Netherlands Antilles. It aimed to provide new opportunities for vulnerable young people between the ages of 16 and 24 by offering a training programme that would help them in their social lives and in the labour market. The training programme was compulsory and aimed to promote personal and professional development to enhance the social and occupational skills of adolescents and young adults. Attention was paid to developing knowledge, understanding, skills and attitudes in a way that matched the needs, potential and experience of programme participants, as well as the needs of society. Where possible, these training programmes were to start at the entry level of secondary vocational education. Participants were expected to achieve a qualification, preferably at level 1 of Secondary Vocational Education (i.e. assistant in the workplace). With this qualification, they would have more opportunities on the labour market, and the prospect of going on to higher professional education.

963. The National Ordinance on Compulsory Training was to be implemented in a series of three five-year programmes. On 1 March 2005, the Netherlands Antilles and St Maarten signed an agreement for the implementation of the first five-year programme. The first phase, a pilot, subsequently ran from May 2006 to the end of June 2008.

964. In 2008, the youth development programmes implemented under the National Ordinance on Compulsory Training were combined with the educational innovation programme (2002), which was based on foundation-based education, vocational training and institutional and organisational development, to form the Education and Youth Cooperation programme (OJSP) 2008–2012.

965. On 2 April 2009, the Implementing Organisation Netherlands Antilles Development Fund (USONA) approved the project proposal for the pilot phase of the St Maarten Youth Development Programme. A pilot phase was needed in order to produce an implementation plan, which, subject to approval, will enable additional funds to be made available for implementation for the next three years (up to 2012). The purpose of this implementation plan was to:

- Identify the target group and current state of affairs;
- Develop project goals, expected results and indicators;
- Identify risks and assumptions;
- Provide detailed information on implementation of the programme and on sustainability, monitoring and evaluation and future prospects.

This plan was approved and the Youth Development Programme was launched and will run for three years.

966. A midterm evaluation of the OJSP led to the following general conclusions:

- Since 2008 a broader scope has been created for St Maarten to adopt its own approach to the OJSP. Unlike school heads, school boards have been closely involved in implementation.
- Foundation-Based Education: implementation of improvements has commenced, but actual application of Foundation-Based Education within the classroom needs to be strengthened with specific attention paid to course materials, ICT, care structures and quality of teachers.
- Vocational training (pre-vocational education (VSBO) and secondary vocational education (SBO): reforms to vocational training have commenced, but application in the classroom needs to be strengthened. An independent school for SBO is needed on St Maarten.
- Youth Development Programme (YDP): though in its early stages, the programme has produced some positive results. It provides a caring environment, and aims for the direct input of its clients to the labour market, to which, however, training still needs to be fine-tuned.
- Compulsory education: the first phase of compulsory education has been implemented, but there is a shortage of capacity. The roles of the education officer and the education inspectorate must be anchored in the quality structure.
- Institutional and organisational development: the Department of Educational Research, Policy and Innovation (DERPI) programme office has played an important role in translating policy into implementation. The financial framework for the future has been secured through the Payment & Accounting (V&V) funding scheme. Involvement of the field, a monitoring system, the role of the inspectorate and exchange of knowledge require more attention.

## Article 42

967. There has been no systematic approach to training in the rights laid down in the Convention, although awareness-raising programmes have been set up by the Joint Committee charged with the annual Rights of the Child campaign. Educational materials are available at the local library. During a DERPI workshop in 2010 a session on the rights of the child was organised for school representatives. Booklets were also made available to schools.

### Children and the criminal justice system

968. In the last reporting period the Committee expressed its concerns about the reservations made by the State Party with respect to the juvenile criminal law, applicable in the Netherlands Antilles, which provides that children aged 16 and over can be tried under adult criminal law. At the same time, minors are sometimes housed with adults in detention facilities. With respect to article 40 of the Convention, the Committee expressed its concerns that minors committing lesser offences are rarely offered legal representation. Reference is made to VIII, Special Protection Measures.

969. Under the criminal law of the former Netherlands Antilles, young people up to the age of 16 cannot be imprisoned. Instead, they may be reprimanded, given a conditional dismissal (with a period of work in the community) or sent to a correctional facility, e.g. the *Gouvernements Opvoedings Gesticht* (G.O.G) in Curaçao. The options offered to these minors within the current legal system are thus highly limited, presenting little to no opportunity for rehabilitation. Additionally, the organisations that currently deal with the

supervision of these minors are limited in number and the services they offer inadequate, given the complexity of the cases they deal with. The new constitutional status enables St Maarten to be solely responsible for ensuring the maximum possible wellbeing and development of children. It also requires the Government to have a legal framework in place which conforms to international norms and standards and relevant United Nations protocols. Special emphasis must be placed on reform of the juvenile justice system and prevention of child neglect, abuse and exploitation.

### **III. Basic health and welfare**

#### **1. Mentally challenged children**

970. Established in 2005, the Special Olympics Foundation has been providing programmes for the learning disabled for the past 7 years. Approximately 50 children participate in a programme involving various sports and recreational activities. They attend the Prins Willem Alexander School and the Sister Basilia Centre, both of which are institutions that cater to teaching disabled children. As an incentive, participants are selected to participate in the International Special Olympics and in regional meets.

#### **2. Health and health care**

971. Although healthcare legislation in the Netherlands Antilles stipulates that preventive health care should be available to all children, including the children of immigrants, the residence permit or legal status of the parents largely determines the type of care children receive. The Youth Care policy framework, which was approved by the former Netherlands Antilles, was an important step towards equal care for all children. That policy now informs youth care on the island.

972. As a general rule, no distinction is drawn between different groups in terms of the right to health care. There is, however, a difference between those who are insured and those who are not. In the previous situation, the Netherlands Antilles as a whole, and the individual island territories, were not responsible for the costs of care for people who were not insured. The new General Health Insurance (AZV) system, although not yet implemented, is expected to help reduce the number of people who are uninsured.

973. St Maarten's healthcare sector is therefore proposing to set up a guarantee fund when the AZV system is introduced, to help cover the costs of medical care. At present, the insurance system is inadequate and there are no rules governing the uninsured.

974. No new anti-discrimination measures have been taken since 2002 in the healthcare sector. All children on St Maarten receive free preventive healthcare through youth care programmes, regardless of whether they are registered in the population register. The main problem facing the healthcare system in safeguarding every child's right to be free of discrimination is the lack of legislation and the inadequate insurance system. There is also a shortage of school and Guardianship Council social workers, meaning that necessary action cannot always be taken.

#### **3. Education**

975. Immigration control has caused serious problems for St Maarten's education system. This has resulted in situations where children from immigrant families are not enrolled at a school at the beginning of the school year. In September 2009, St Maarten began implementing the National Ordinance on Compulsory Education under which all children between the age of four and 18 must attend school. This was a positive development for undocumented children residing on St Maarten. St Maarten opted to implement the

Ordinance in phases. Under phase three, which is currently in effect, the Government has to ensure that all children between the ages of ten and twelve residing on St Maarten can attend school, irrespective legal status. In the next two school years, phases four and five will be implemented, covering young people aged 13–15 and 16–18.

#### 4. AIDS/ HIV Update

976. The HIV/AIDS Programme Management Team (PMT) conducted an evaluation of the St Maarten HIV/AIDS National Strategic Plan (NSP) for the 2007-2011 period. The aim was to assess whether the strategic objectives and activities selected and implemented by the collaborating partners had achieved the results envisaged. The findings from the evaluation were also used for the development of a new strategic plan for the 2012-2016 period. The budget for the HIV/AIDS programme showed a progressive growth from 2007 through 2009. The summary of table 1 (evaluation report 2007-2011) below gives an outline of budgetary allocations by priority area.

Table 9

#### Summary of PMT budget (USD) by priority area and year

<i>Year</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Priority #1: Advocacy, Policy Development and Legislation	35,937	59,300	58,055
Priority #2: Reducing Risk and Vulnerability to HIV/AIDS Infection	39,063	28,500	33,000
Priority #3: Care, Treatment and Support of People Living with HIV/AIDS	0	5,000	4,500
Priority #4: Surveillance and Research* includes contingency funds	0	4,500	6,985
<b>Total</b>	<b>\$75,000</b>	<b>\$97,300</b>	<b>\$112,100</b>

977. A major accomplishment of the PMT was the establishment of a Memorandum of Understanding (MOU) between Sector Health Care Affairs (now Collective Prevention Services of the Ministry of Healthcare, Social Development and Labour) and the Medical School, American University of the Caribbean (AUC). This MOU would authorise Departments within the Ministry (PMT) to conduct research in collaboration with the University. Little research has thus far been conducted, but both parties have worked together to implement the Girl Power programme, which focuses on the self-empowerment of young girls. The PMT also initiated a strategy to develop and increase public/private sector partnership in responding to HIV. It has which has thus far exceeded expectations. The strategy was adopted by other islands and has been documented by PANCAP as a best practice.

Table 10

#### Number of people living with HIV, St Maarten, 1985-2010, by age group and gender

<i>Age Group</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
<1	11	7	<b>18</b>
1-4	2	0	<b>2</b>
5-14	3	2	<b>5</b>
15-24	29	32	<b>61</b>
25-44	255	192	<b>447</b>



<i>Age Group</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
45-64	70	55	<b>125</b>
65+	5	1	<b>6</b>
<b>Total</b>	<b>375</b>	<b>289</b>	<b>664</b>

*Source:* Epidemiology & Research Unit. Medical and Public Health Service of Curaçao.

## **5. Vaccination**

978. The vaccination programme on St Maarten for 0-4 year olds, which was run by the White and Yellow Cross Foundation baby clinic from 1969 to September 2010, is now run by the baby clinic of the Collective Prevention Services. Vaccinations are free of charge and fully financed by the Government for all children and young people, from birth to the age of 17. The objective is to have all parents and their children participate in the well-baby clinics for screening, guidance, support and vaccinations. These clinics, which have been a fully integrated Youth Health Care Service since July 2009, document data on children's health and forward them to the Ministry of Healthcare, Social Development and Labour for central registration. Information on numbers of births is sent to the central vaccination register by the St Maarten Medical Centre, the central registrar and the midwife every three months. Other parties involved in vaccination programmes forward data every month to the Youth Health Care section for central registration.