

Country session: Netherlands CRC

Date of session: 1st and 2nd February 2022 (89th session)

Context

The State party review has been delayed due to the Covid-19 pandemic, and the State delegation participated remotely in the dialogue with the Committee. The hybrid dialogue lasted four hours (instead of six hours, usually).

The Netherlands is the 5th country to be reviewed under the Simplified Reporting Procedure. The Kingdom comprises 4 countries: Netherlands, Aruba, Curaçao and Sint Maarten.

Background information

[OHCHR press release](#)

Webcast: [first part](#) and [second part](#)

[Audio file](#)

Reporting

Reporting methodology

Standard reporting procedure

Simplified reporting procedure (SRP)

Concluding Observations with urgent measures

State report

| Common core document | |
|--|------------------|
| Initial submission Netherlands | 12 December 1995 |
| Initial submission Antilles | 12 December 1995 |
| Initial submission Aruba | 27 March 2003 |

| CRC | |
|---------------|------------------------------------|
| No. of report | 5 th to 6 th |
| Due date | 15 September 2020 |
| Submission | 3 November 2020 |



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Public reports from children’s rights defenders

| <u>Written inputs</u> | |
|-----------------------|---|
| NGOs | <ul style="list-style-type: none"> • Antillean Federation for Youth Care • Asociación Trabao di Hubentud na Aruba (ATHA) & Centro di Desaroyo (CEDE) • Child Identity Protection • Dutch National Youth Council • Dutch NGO Coalition for Children’s Rights • Heart Centered Leadership Foundation • Institute on Statelessness and Inclusion and ASKV Refugee Support • Netherlands organisation for sex diversity, COC Nederland and Transgender Netwerk Nederland • Partnership of Parents with Child Care (SamenwerkingsVerband van Ouders met Jeugdzorg) • ZHAW International NGO Law and Policy Project & Tax Justice Network |
| NHRIs | <ul style="list-style-type: none"> • Netherlands Institute for Human Rights • The Ombudsman for Children • National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children |

State delegation

The [delegation of the Netherlands](#) was large and representative of the four countries of the Kingdom. The members of the delegation were mainly from the Ministry of Education, Culture, Youth, and Sports, but also from the Youth Department at the Ministry of Health, Welfare and Sport, the Ministry of Justice and Security, the Ministry of the Interior and Kingdom Relations, the Ministry of Social Development, Labor and Welfare.

The Taskforce Children’s Rights and the Children’s Rights Committee were represented, including by the President of the latter.

The State's opening statement is available [here](#).

Committee’s Task Force members

| Name & Last Name | Country |
|---------------------------------|--------------|
| Gehad Madi (coordinator) | Egypt |
| Bragi Guðbrandsson | Iceland |
| Benyam Dawit Mezmur | Ethiopia |
| Ann Skelton | South Africa |

Dialogue description

- Character of the dialogue

The dialogue was cooperative and fluid. As under the Simplified Reporting Procedure, the discussion was focused, and the answers provided by the members of the delegation were technical and sometimes political. The delegation did not always provide answers the Committee's questions, which had to insist on many occasions. Some questions were addressed to the Kingdom while others specifically to the Caribbean part or to the European part.

- General assessment made by the Committee

The Committee regretted that the delegation preferred to answer some questions by writing after the session rather than during the interactive dialogue. However, the Committee underlined the direct answers provided by the representatives from the Caribbean island countries of the Kingdom. The Committee also expressed its regret that the discussion was not held in person and that it could only last for four hours.

- Main issues discussed

General measures of implementation

- **Reservations:** The Committee deplored that the Kingdom of the Netherlands is maintaining its reservations to three articles of the Convention, representing one of the largest State Party's reservations. On its reservation on the application of the adult penal law to children of 16 years and older, the State responded that minors are tried according to the juvenile criminal law but that courts should be able to try 16-17 years old under the adult criminal law under certain circumstances, and stated that this was rarely applied. The Committee insisted that the ratifying State should adjust its system to the Convention rather than adopting reservations and questioned the rational and need for such reservation. The Committee also raised that the Netherlands was one of the few European countries not having ratified the Optional Protocol on a Communications Procedure. The delegation explained that it was currently being studied.

General principles

- **Non-discrimination:** The Committee asked about the efforts made by the Netherlands to reduce the disparities between municipalities regarding children's access to services and facilities. It was asked if children in the Caribbean part of the Kingdom have the same access as children in the European part. The delegation replied that they are taking measures to strengthen the quality and effectiveness at local level and that all municipalities must ensure access to local services.
- **Best interests of the child:** The Committee first pointed out that the best interests of the child have not been incorporated into national legislation and policies, as well as in immigration law. The Committee also underlined that it was not known to judges and professionals working with and for children. The State Party explained that while the best interests of the child were not integrated into the immigration legislation, they are implemented both in practice and in policy throughout the Dutch immigration system. The delegation also pointed out that a draft law aiming to integrate the best interests of the child into the Aliens Act is currently under consideration by the Parliament.



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- **Allocation of resources:** The Committee raised that there were a high level of tax evasion and abuse by companies operating abroad, which had negative impact for the realisation of children's rights. The Committee also requested more information about budget cuts in youth care as well as about the municipalities being in debt. The delegation replied that municipalities receive financial assistance from the central government to protect children's rights. The Netherlands stated that they made additional funding available and that they had a youth reform agenda aimed to arrive at agreements on a structural budget in conjunction with commitments to improving the system.

Civil Rights and Freedoms

- **Statelessness and nationality:** The Committee asked the delegation about the systemic challenge of statelessness and measures taken to ensure protection of stateless children. The Netherlands replied that a child born stateless could acquire Dutch citizenship after 3 years of lawful residence in the Kingdom. The delegation also pointed out that a legislative proposal was presented at the end of 2020 so that children born stateless in the Kingdom could obtain Dutch citizenship even without a lawful residence.

Family Environment and Alternative Care

- **Children deprived of a family environment:** The Committee asked the delegation about the impact on reduction of the need for institutionalization and increasing opportunities for children to be placed in home-based care. The Committee expressed its concern in terms of abusive practices of institutions regarding isolation and detention in residential facilities. The Netherlands responded that waiting times for youth care remain a serious issue at local and national levels, and asserted that a child could only be placed in closed youth care facilities if considered to have serious problems. The delegation added that the government aims at reducing the number of children being sent to closed care facilities, significantly decreasing, and stimulating small-scale residential placement of children.
- **Family Reunification:** With regard to unaccompanied children, underscoring that the family reunification policy in the Netherlands was considered a positive model, the Committee asked for clarifications on the difficulties of reunification of children with extended family members and on the reasons for the significant delays in the reunification process. The delegation stressed that the State party was acting in accordance with the EU Family Reunification Directive, applying lenient conditions for the nuclear family. The Netherlands justified the delays in family reunification by the effect of the Covid-19 pandemic on the capacity of diplomatic missions' ability to assist families as well as the increasing number of applications for family reunification in 2021.

Violence against children

- The Committee asked if there had been any assessment of the impact of the national program for child victims of violence and abuse and in particular in quality of services. The Committee also requested information on the progresses made and obstacles to the implementation of the decentralization of the child protection system since 2015. In addition, the Committee inquired on the progress made in child protection in the Caribbean part, especially on corporal punishment, as there seems to be a considerable gap between the child protection systems between the Caribbean and the European parts. The State explained that in recent years, the issue of child abuse has been addressed through the

program called “*Violence does not belong anywhere*” that has reduced violence, however, the State admitted that child abuse issues remain. Children can, among other options, contact the authorities through an online chat. The Committee noted that several important questions on violence remain unanswered.

Basic Health and Welfare

- **Mental health:** In response to the Committee's question on mental health services in schools and the lack of data on children's mental health, the Netherlands responded that the Kingdom was aware of the impact of the Covid-19 pandemic on the mental well-being of children, although this issue predates the pandemic. The delegation explained that they are currently establishing a youth panel on mental health that will focus on policy making in the field of mental welfare.

Education, leisure and cultural activities

- **School bullying and drop-out:** The Committee asked the delegation how it responded to issues of bullying and cyberbullying in schools, especially in Curaçao. The Netherlands replied that in Curaçao, two schools have implemented United Nations Educational, Scientific and Cultural Organization (UNESCO) programmes against bullying. On trends in dropout and exclusion in the Kingdom, the delegation explained that a digital monitoring system is being launched at the end of 2022, as currently lacking.

Special Protection measures

- **Asylum-seeking, refugee and migrant children:** To the Committee's question on whether migrant children aged over 15 were treated as adults, the delegation of the Netherlands explained that unaccompanied minors are provided with specific safeguards, including being appointed a legal guardian and being interviewed by a person specially trained for such interviews. The Committee expressed serious concerns about children disappearing from shelters, possibly being trafficked. The State responded that unaccompanied minors are received in various structures which are not closed, and that they are taking measures to prevent disappearances. It was stated that all undocumented children have access to necessary health care.
- **Children in conflict situations:** The Committee expressed concerns about the lack of explicit criminalization of the recruitment of children under the age of 18 by non-State armed groups. The delegation explained that recruitment without government authorization for foreign military service, or any other form of armed struggle, is already a punishable offense. The Committee was seriously concerned about the situation of Dutch children involved in armed conflict abroad; including children in Syrian camps. The Committee asked whether the State party has a mechanism for early identification of children who may have been involved in armed conflict abroad, and to offer them social and psychological recovery and reintegration into society. Recognizing that its policy is not based on active repatriation, the delegation assured that several children have returned to the Netherlands. Once in the Netherlands, the children are observed for an initial period in a specialised institution, receiving care and guidance according to their specific needs.

Recommendations of the Committee

In its [Concluding Observations](#), the Committee drew the State party's attention concerning the following areas:

- **Non-discrimination:** The Committee recommends that the State party eliminate disparities between constituent countries and all municipalities. The State party should also ensure that all municipalities have a child-friendly anti-discrimination service where children can easily report cases of discrimination, and mechanisms to respond effectively and in a child-sensitive manner. In addition, the Committee also presses the State to ensure the investigation of cases of discrimination against children. The Committee also expects that children with disabilities, asylum-seeking and migrant children and children without a regular residence status have access to inclusive and quality education, including early childhood education, without discrimination. The State must address the overrepresentation of migrant children in special schools and the justice system, including through mandatory training on non-discrimination for the judiciary, law enforcement officials and teachers. Finally, the development of policies and awareness-raising measures aimed at addressing the root causes of de facto discrimination, with a view to eliminating stereotyping, prejudice and discrimination is also expected.
- **Violence against children:** The Committee recommends that the State party ensures the effective investigation and intervention in all cases of violence against children, including neglect and sexual abuse, in and outside the home, and in the digital environment, especially cases involving sexual exploitation, cyberaggression and grooming. The State party should also take legislative and administrative measures to set up a child protection infrastructure in Bonaire, Saba and Sint Eustatius and ensure the availability of legal support and child-friendly and confidential complaint mechanisms in residential care, mental health institutions, foster care systems and child protection service. In addition, the Committee recommends that the State party strengthens measures for ensuring that children who are victims or witnesses of violence have prompt access to child-friendly and multisectoral remedies and comprehensive support and strengthen efforts to train professionals concerned to identify and adequately respond to cases of violence and child abuse. The Committee recommends that Netherlands develop initiatives aimed at protecting children with disabilities and transgender and gender-diverse children from all forms of violence, including physical and mental abuse, maltreatment, and sexual exploitation. Finally, the State party needs to ensure the explicit prohibition of corporal punishment by law in alternative care settings, day care and schools in Bonaire, Saba and Sint Eustatius, and strengthen awareness-raising campaigns aimed at promoting positive, non-violent and participatory forms of child-rearing and discipline and underscoring the adverse consequences of corporal punishment; and enhance access to treatment programmes for children with sexually inappropriate behaviour and ensure that such children receive appropriate therapeutic attention and benefit from child protection measures.
- **Children with disabilities:** The Committee urges the State party to ensure that all children with disabilities, including those with intellectual and psychosocial disabilities, have access to and benefit from inclusive education at all levels, including in Bonaire, Saba and Sint Eustatius. The Committee also expects strengthened measures for ensuring inclusive



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education. At the same time, the State must also expeditiously amend the Compulsory Education Act to limit the grounds for exemption of children with disabilities from compulsory education on physical or psychological grounds, and allocate sufficient human, technical and financial resources for its implementation, with a view to ensuring that exemptions are not used disproportionately to deny a child's right to education. Finally, the Committee asks the State to strengthen support to children with disabilities for their social integration and individual development and ensure that families of such children know how to seek the necessary support, including by ensuring that personal health budgets are sufficient to cover the costs of quality care and that all municipalities implement the comprehensive assessment framework aimed at ensuring that children with disabilities receive prompt and early support.

- **Impact of climate change on the rights of the child:** The Committee urges the State party to reduce greenhouse gas emissions in line with the State party's international commitments, and ensure that national policies and programmes on environmental protection and climate change are implemented in accordance with the principles of the Convention and taking into account children's needs and views. The State needs to take effective measures for the mitigation and adaptation to the harmful effects of climate change, including the heightened risks of the rise in sea levels and stronger hurricanes to the islands in the Caribbean. Finally, an assessment of policies and practices related to the aviation, transport and other relevant sectors and the impacts of the resulting atmosphere pollution and greenhouse gas emissions on children's rights as a basis for designing a well-resourced strategy to remedy the situation should be put in place and the children's awareness on climate change and environmental health need to be promote.
- **Asylum-seeking, refugee and migrant children:** The Committee recommends that the State party ensures child-friendly asylum procedures for all children under the age of 18 years, including by ensuring the early identification of their vulnerabilities and child-specific forms of persecution and that they are interviewed in a child-friendly manner ensuring that all asylum claims, including those submitted by children over 15 years of age, are reviewed in a child-sensitive manner and with due consideration for the age at which they fled their country of origin; and providing them with age-appropriate information and legal advice about their rights, asylum procedures, available services and requirements for documentation, particularly in view of recent amendments to the Dutch Aliens Decree. The best interests of asylum-seeking children need to be a primary consideration in all asylum processes. At the same time, the barriers faced by asylum-seeking and refugee children in Aruba and Curaçao in accessing education, health, housing and other essential services, with a view to ensuring that all such children have access to all basic services without discrimination need to be removed. The immediate transfer of asylum-seeking children and their families from emergency reception facilities is a priority. Finally, the State must adopt permanent and sustainable resettlement options for asylum-seeking children and their families in Aruba, Curaçao and Sint Maarten to ensure that they are given proper legal status and access to employment and other opportunities.
- **Administration of child justice:** the Committee recommends that the State party considers raising the age of criminal responsibility to at least 14 years; and conducting a review of the law to ensure the application of its child justice system to all children below the age of 18

years. In addition, the Committee urges the State party to prevent and limit the use of pretrial detention by ensuring that children arrested and deprived of their liberty are promptly brought before a competent authority to examine the legality of the deprivation of liberty or its continuation. The application of deprivation of liberty need to be monitored to ensure that it is used only as a measure of last resort and for the shortest possible period of time, and that it is regularly reviewed with a view to its withdrawal. Moreover, the State should ensure that any separation of a child from other children is for the shortest possible time and is used only for the protection of the child or others, in the presence of, or under the close supervision of, a suitably trained staff member, and that the reasons and duration are recorded. The Committee also expects that in all parts of the Kingdom, in cases where detention is unavoidable, children are not detained together with adults and that detention conditions comply with international standards; as well as the development of a strategy for the prevention of child offending in all parts of the Kingdom, including early intervention directed at children below the minimum age of criminal responsibility. Finally, the Committee urges the State to reconsider the routine practice of the testing and storage of DNA in respect of children convicted of certain specified offences and to review aspects of its criminal record system that prevent children charged with certain offences from obtaining a certificate of conduct, including by erasing the criminal record of children who are acquitted or have completed their sentence, including for sexual offences.

The Committee also drew the State party's attention to the recommendations concerning the following areas:

- General Measures of implementation: **Reservations and declarations; legislation; coordination; allocation of resources; data collection; independent monitoring; dissemination awareness-raising and training; children's rights and the business sector;**
- General principles: **non-discrimination; best interests of the child; respect for the views of the child;**
- Civil rights and freedoms: **birth registration and nationality; right to privacy and access to appropriate information; right to identity;**
- Violence against children: **violence against children; harmful practices;**
- Family environment and alternative care: **family environment; children deprived of a family environment;**
- **Children with disabilities;**
- Basic health and welfare: **health and health services; mental health; adolescent health; impact of climate change on the rights of the child; standard of living;**
- Education leisure and cultural activities: **education; including vocational training and guidance; human rights education;**
- Special protection measures: **asylum-seeking, refugee and migrant children; unaccompanied children; trafficking; administration of child justice.**

Sustainable Development Goals

The Committee recommended the realization of children's rights in accordance with the Convention and the Optional Protocols thereto throughout the process of implementing the 2030 Agenda for Sustainable Development and urged the State to ensure the meaningful participation of children in achieving all 17 Sustainable Development Goals.



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Throughout its Concluding Observations, the Committee referred to the following targets:

- 10.3 to ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.
- 5.2, 16.1, 16.2 on the right of the child to freedom from all forms of violence.
- 3.4 to reduce by one-third pre-mature mortality from non-communicable diseases through prevention and treatment, and promote mental health and wellbeing.
- 13.2, 13.3 to integrate climate change measures into national policies, strategies and planning, and to take urgent action to combat climate change and its impacts.
- 1.2 to reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions;
- 4.2, 4.5, 4.a to ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education, to eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples, and children in vulnerable situations, and to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.;
- 4.7 to ensure all learners acquire knowledge and skills needed to promote sustainable development, including among others through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship, and appreciation of cultural diversity and of culture's contribution to sustainable development.

Next State report

| CRC | |
|---------------|-----------------|
| No. of report | 7 th |
| Due date | 6 March 2027 |

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