



Actief voor de  
**Rechten** van  
het **Kind**



**Defence for Children and ECPAT Netherlands contribution to the second Universal Periodic Review of the Netherlands**

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## **INTRODUCTION**

Defence for Children is a Dutch NGO active in the field of children's rights in the Netherlands and elsewhere in the world. Defence for Children is merged with ECPAT – Netherlands.

## **CONSIDERATIONS**

In the past years Defence for Children formulated considerations concerning the rights of the child to the 2008 Human Rights Council UPR recommendations and to the 2010 interim report responses of the Netherlands.

The following considerations are still valid:

- The reservations to the Convention on the Rights of the Child are still not withdrawn. There is no information available about whether and when the government will consider the recommendation of the Human Rights Council concerning the withdrawal of the reservations.
- The Netherlands did not introduce children's rights education into school programs. An Action Plan on Human Rights Education is not available.
- The government of The Netherlands does not see combating the existence of 'black' and 'white' schools as a priority issue.
- There are no sufficient crisis and relief centres for children victims of trafficking, there is insufficient treatment available for these children and that are not sufficient professionals available.
- The legislation of the Netherlands does not provide protection of the rights of all children independently of the (migrant) status of the child and his or her parents.

## **POLITICAL SITUATION**

The program of the government of the Netherlands (Coalition Agreement 'Freedom and Responsibility') presented on 30 September 2010 does not in children or have positive policies that concern children in particular. The language used in the Coalition Agreement (*Regeerakkoord*) is not child friendly but repressive. For the implementation of the policy the government will not be shying away from a termination of human rights treaties and avoidance of EU directives. The government focuses on restricted admission of refugees in the Netherlands. The government is dedicated to the introduction of penalisation of illegality of migrants without residence permit. In cases of asylum seeking minors the government is dedicated to the quickest possible return of the minor. Investing in return policy is planned to be covered by the development cooperation's budget. The development cooperation's budget is diminished. Awkward behaviour of kids at risk is planned to be pushed back by judging under speed law and immediate execution of punishment. The government is working on Penal Law for Adolescents (15-23 years). Parents of children under 12 causing trouble or who are criminally active will be held responsible.

The budget 2012 foresees cutbacks in youth policy which will affect all children but especially children in poverty (due to lower child allowance) and vulnerable children like chronically ill or disabled children (withdrawal of Person-Linked Budget).

## **POSITIVE DEVELOPMENTS:**

- The first Ombudsman for Children was appointed by the Parliament in March 2011.
- The Netherlands ratified the Optional Protocol on Children's rights in armed conflicts to the Convention on the Rights of the Child and will be presenting its initial report on the Optional Protocol in 2012.
- On 19 April 2011 the majority of the Parliament voted for the establishment of a Human Rights Institute. The First Chamber of the Parliament voted positively on the bill on 22 November 2011. The Human Rights Council has been officially established.

## **RECOMMENDATIONS:**

### **IN GENERAL**

- **Implement children's rights into human rights policy of the Ministry of Foreign Affairs.**
- **Withdraw reservations with respect to the Convention on the Rights of the Child.**
- **Introduce children's rights education in school programs.**
- **Guarantee access to education and internship to all children, especially the most vulnerable like migrant or disabled children.**
- **Beware children of poverty and social exclusion.**
- **Guarantee equal rights to all children independently of the legal status of the child and his or her parents.**
- **Renounce penalisation of undocumented residence and introduction of the rule once-illegal-always illegal.**

### **JUVENILE JUSTICE**

The policy concerning youth criminal law in the Netherlands is focused on strong punishment of minors including deprivation of liberty. The policy should be focused on the opposite: a decrease of the number of children in detention. The 79% of minors deprived of liberty in Youth Custodial Institutions in the Netherlands are in pre-trial detention. According to the Youth Custodial Institutions Act minors can be kept in police detention up to 9 or 16 days and fifteen hours depending on their age<sup>1</sup>. There are no alternatives for deprivation of liberty. Minors in police custody are treated almost in the same way as adults and sometimes they are kept in cells together with adults. The age of children is not adequately taken into account. Special criteria for treating minors are missing in the law and in the practice. The rule 'suspend minor unless...' is applicable only after three or six days, when the minor's custody has already been prolonged by a judge.

### **Recommendations:**

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<sup>1</sup> Report by Defence for Children, 'Just one night in a cell', September 2011

- **Prepare special guidelines and protocols on the treatment of juvenile suspects.**
- **Introduce mediation and restorative justice to youth criminal law.**
- **Never imprison children together with adults in the same cell or in the same department.**
- **Provide special training for all persons working with minor suspects.**
- **Make police cells more child friendly and guarantee basic needs, such as daylight, contact with family, good quality of food and drinks.**
- **Give children more information during their first contacts with the police.**
- **Formulate supervision criteria and provide monitoring and complaint mechanisms for minors in police detention.**

## **YOUTH CARE**

In recent years the demand for youth care has increased dramatically. The government has invested in signalling problems and not in effective prevention of behavioural or educational risks and easily accessible support for children and parents. According to the annual report of the National Youth Care Inspectorate (2010) despite nationwide arrangements and protocols the daily practice is insufficient and not uniform. The agreements for implementation and application of protocols and methods are not met which is affecting the quality of care and safety of the children. Many children and kids wait longer for a proper treatment than the agreed acceptable waiting periods. The need for more serious and specialised forms of youth care is growing. In 2010, 2952 kids stayed an average of 8,1 months in a closed institution for youth care.

The government is working on a decentralisation of the youth care system. The municipalities will become operationally and financially responsible for all kinds of youth care services, including the most specialised care. The government is introducing 'efficiency reductions' of approximately 9% to the funds available for the youth policies. The central authority will transfer less to the municipalities while the municipalities will have to deal with the costs of a major reorganization and cutbacks in regular education and special education for children with disabilities.

### **Recommendations:**

- **Invest in prevention and accessible educational support for children and parents.**
- **Increase a number of open institutions for treatment.**
- **Continue investing in the reduction of waiting lists for all forms of youth care.**
- **Guarantee that 'efficiency reductions' being cuts in public expenditures for youth care will not affect children waiting for treatment.**

## **CHILD POVERTY**

The Social and Cultural Planning Bureau (SCP) reports that in 2009 poverty has risen in the Netherlands. The SCP uses the criteria 'not-a-lot-but-adequate' criterion; the budget is determined by the National Institute for Budget Information (and consists of the minimum expenditures for food, clothing, housing and social participation). In 2009 6,2% of the families lived below this minimum income level: 971.000 persons living in 453.000 households. The number of children between 0-17 living in poverty is increasing; in 2009 9,1% (311.000) children lived below the 'not-a-lot-but-adequate' level, mostly in single parent families and families living on welfare (in 2008: 8,1% of the children). Increasingly

more families belong to the group 'working poor': in 2009, 576.000 people in the Netherlands live in families that sustain on insufficient income.

**Recommendation:**

- **Beware children from poverty and social exclusion caused by financial crisis and cuts in governmental granting.**

**EDUCATION**

The cuts in public expenditures effect special schools for vulnerable children like disabled and chronically ill children. Children are supposed to attend ordinary schools which means that for many of these vulnerable children education will not be possible any more. The person-linked budgets for individual care and education are no more available.

The government of the Netherlands does not consider combating of 'black' and 'white' schools as an issue.

**Recommendations:**

- **Do not close special schools for vulnerable children.**
- **Promote mixed schools and prevent creation of segregated white and black schools.**

**IMMIGRATION LAW**

The government wants to penalise the stay in the Netherlands of undocumented families (families without papers or residence permit). Even if children are excluded from this regulation, they will experience the effects of penalisation. Undocumented workers will be put in aliens' detention facing removal from the Netherlands. Moreover, the removal on these grounds will be used for rejection of applications for residence permit. Children will be affected by this rule.

*Children in refugee centres*

In 2010 there were approximately 7,000 children in refugee camps, 200 more than in five previous years. According to a ngo-report on the situation of children in refugee centres in the Netherlands the refugee centres do not meet the requirements of the Convention on the Rights of the Child. That applies to many aspects of children's rights: family, education, housing, recreation, play and, leisure, health, safety, procedures, finances and participation. The problems concerning all topics are closely interrelated and form a serious threat to the development of children. The authorities assume that parents can care for their children. However, since the parents experience many problems such as trauma, language barriers and culture shock their children are relatively at higher risk of educational problems. Children and their parents often have to move from one refugee centre to another. Many families stay in shelters for years because the asylum procedures are ongoing.

**Recommendations:**

- **Let the Inspection for Youth monitor the situation of children in asylum centres**
- **Limit the number of rehousing of families with children.**
- **Set a limit to the length of stay of children in a refugee centre.**
- **Focus on special reception centres for families with children.**
- **Ensure that the new statutory child abuse reporting code is also applicable to workers in the refugee centres.**
- **Guarantee health prevention and access to health care on the same standards**

**as for other children in the Netherlands.**

- **Invest in better detection of (mental) health problems of children in refugee centres.**
- **Train staff in the refugee centres and install counsellors for children.**

#### *Shelters for unaccompanied minors*

Unaccompanied minors (AMA) younger than 13 years are placed in foster homes after arrival in the Netherlands. Youths of 13 to 15 years are hosted in small group houses for up to twelve persons. Depending on the degree of autonomy the adolescents older than 15 years stay either in small residential units or on a campus.

#### **Recommendations:**

- **Close the AMA campuses immediately.**
- **Ensure that unaccompanied minors under fifteen years are hosted in foster care.**
- **Host young people over fifteen years in small units, with intensive supervision.**
- **Do not separate children-members of one family.**

#### *Right to housing for families*

In response to the Defence for Children complaint, the European Committee of Social Rights declared in October 2009 that putting undocumented children on the street is a breach of respect for the children's human dignity. Following a ruling by the Hague Court on 11 January 2011, the Minister suspended temporarily putting families with children on the street, pending the consideration of the appeal. On 1 January 2011 there were 660 children who stayed in the Netherlands for more than five years outside the shelter while their application was being processed.

#### **Recommendation:**

- **Ensure that families with children always have access to child friendly shelters.**

### **SEXUAL EXPLOITATION OF CHILDREN AND TRAFFICKING**

In the Netherlands, we call for greater protection of children and young people against child sex trafficking through urgent proactive implementation and enforcement of protective measures.

According to the Police Monitor 2010, more than half of the 25 police regions score poorly or inadequately for investigating human trafficking cases. 20 of the 25 police regions score below minimum standards in handling child pornography. None of the police regions is combating child sex tourism. The Ministry of Security & Justice announced in May 2011 an increase in the number of police investigators specialized in child pornography from 70 to 145, and presented in July 2011 an Action Plan Child Pornography. Unfortunately, there is no extra police capacity to combat human trafficking or child sex tourism and no integrated Plan of Action to combat all forms of sexual exploitation of children. According to the Report of the National Rapporteur on Human Trafficking (2010), the training for professionals does not always have specific attention for minors. Law enforcement officials, prosecutors and judges need to be trained on how to receive, monitor and investigate all forms of sexual violence against children and how to deal with child victims in a child-friendly manner.

Most of the children victims of sexual exploitation do not receive specialized care. Within the regular youth care there are no special provisions for victims of sexual exploitation. Victims of so called loverboys (young men involved in trafficking young girls) can be placed in the

shelter 'Asja'. This shelter offers accommodation for a maximum of ten girls older than 16 years at two secret locations. Specialized care for child victims younger than 16 years and minor boys is not well regulated. Assistance must be tailored to the culture specific needs of victims from both the Netherlands and from abroad. Ensure that the unique needs of child victims of sexual exploitation are addressed rather than merely included in broader youth care programming. Professionals working with child victims of sexual exploitation should receive training on how to provide them the specific care they need.

Information on sexual exploitation is not part of the school curriculum. Prevention programs focus mainly on loverboy issues, while other forms of sexual exploitation, such as on the internet, receive too little attention. Prevention activities are usually locally, temporary and ad hoc responses to striking events in the municipality. A more comprehensive, integrated approach is required where police, child welfare, health care providers, health authorities and schools work together with the support of the government. Sex education must also cover issues such as respectful sexual relationships, self-integrity, perceptions of sexuality, group behaviour and group-induced pressure. The actual effects of prevention programs must be evaluated in order to work evidence based.

#### **Recommendations:**

- **Ensure adequate and appropriate capacity of police and judicial authorities to investigate and prosecute people who are involved in the sexual exploitation and trafficking of children and young people.**
- **Ensure adequate and appropriate care and relief services for children and young people of Dutch and foreign origin who are victims of sexual exploitation and trafficking.**
- **Provide good information, including in schools and targeted assistance to children and young people more at risk to prevent sexual exploitation.**

#### **COMBAT OF CHILD PORNOGRAPHY ON THE INTERNET**

Sexual violence against children also happens via the internet: child pornography is a form of sexual violence against children. Besides the availability of child pornography on the internet, young girls are recruited for prostitution by loverboys through the internet, and children are approached on the internet for sexual purposes. According to the National Rapporteur on Trafficking in Human Beings in her 2011 Report on Child Pornography, repressive measures concerning child pornography alone are not sufficient to effectively protect children from sexual violence. While there are programs in the areas of prevention, detection and care for victims of sexual violence, these lack a digital sexual abuse image perspective. Both online and offline, children have the right to protection from sexual violence. The combat against child pornography must be integrated into policies on combating sexual violence against children and be coordinated by the Ministry of Security & Justice in cooperation with the Ministry of Health, Welfare and Sports.

#### **Recommendations:**

- **Provide trainings on dealing with trauma caused by the permanence of abuse images on the internet.**
- **Introduce measures protecting children from sexual violence online and offline.**
- **Integrate combating child pornography into the policies on combating sexual violence against children.**