



**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**

**Second periodic reports of States parties due in 2002**

**NETHERLANDS\***

[6 March 2002]

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\* For the initial report submitted by the Government of the Netherlands, see CRC/C/51/Add.1, for its consideration by the Committee, see documents CRC/C/SR.578-580 and CRC/C/15/Add.114.

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\* Available for consultation with the secretariat.

## Introduction

1. The Convention on the Rights of the Child entered into force for the Netherlands on 7 March 1995. The initial report (CRC/C/51/Add.1) was submitted to the Committee on the Rights of the Child in May 1997. The Committee considered the initial report on 4 and 5 October 1999 at its twenty-second session. On 26 October 1999, the Committee issued its final comments and recommendations (CRC/C/15/Add.114). The Netherlands replied to the Committee by letter of 21 November 1999, giving its initial response to the recommendations.
2. The Convention entered into force for the Netherlands Antilles on 16 January 1998. The initial report on the Netherlands Antilles was submitted to the Committee in 2001. The Convention entered into force for Aruba on 17 January 2001.
3. On 7 September 2000, the Netherlands signed the optional protocols on the sexual exploitation of children and on children in armed conflict (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict). The ratification procedure for both protocols will start in 2002. The optional protocol on the sexual exploitation of children made certain implementing legislation necessary. This means that ratification cannot take place before mid-2002. At present it is uncertain how long it will take to complete the ratification procedure of the Optional Protocol on children in armed conflict.
4. The present report was prepared by an interministerial working group comprising representatives of the Ministry of Health, Welfare and Sport; the Ministry of Justice; the Ministry of Social Affairs and Employment; the Ministry of Education, Culture and Science; the Ministry of the Interior and Kingdom Relations; the Ministry of Defence, and the Ministry of Foreign Affairs. The report reflects the situation as at 1 October 2001.
5. Topics covered in the initial report have not been reconsidered in the second periodic report, except where relevant changes have taken place since the publication of the initial report.
6. Dutch NGOs have announced their intention of publishing a shadow report on the implementation of the Convention in the Netherlands. They are also behind an initiative by representatives of Dutch youth to produce their own report. That venture will be largely organized and funded by the NGOs, though it will be subsidized by the Ministry of Health, Welfare and Sport and the Ministry of Justice. A youth report steering committee has moreover been set up. It includes representatives of the Ministry of Justice, the Ministry of Health, Welfare and Sport and the Ministry of Foreign Affairs.

## **I. GENERAL IMPLEMENTATION MEASURES**

### **A. Amendments to Dutch legislation (art. 4)**

7. The initial report refers to three pieces of draft legislation that were still being processed. The situation at present is as follows:

- guardianship; co-parenting after divorce (see part V under A (“responsibility and guardianship” and “minors’ right of access to the courts”));
- recognition against the wishes of the biological father (see the general introduction to part V).

8. Other important statutory measures explained in more detail in the report are:

- amendments to the law on names (part IV under A);
- amendments to family law (part V, general introduction);
- the new Aliens Act (part V under D);
- the Disablement Assistance (Young Persons) Act (part VI under D);
- the Youth Care Bill (part VI under D);
- the Basic Childcare Provision Act (part VI under E);
- the Young Offenders’ Institutions Framework Act (part IV under H and part VIII under B ii);
- the Minority Language Teaching Act (part VIII under D).

### **B. Making the Convention widely known (art. 42)**

9. The Convention has been translated into Dutch and published in the Treaty Series (1990, No. 170). The Dutch translation is on the web site of the Ministry of Foreign Affairs ([www.minbuza.nl](http://www.minbuza.nl)). (For the record: in August and September 2001 the translated text was consulted 42 times.) The text can also be accessed at most libraries and through the publisher of the Treaty Series. People who ring or e-mail the Ministry of Foreign Affairs requesting information about the Convention are told various basic facts, such as date of adoption, validity and where to find the text. A great deal of information on the Convention can be found at other web sites, such as that of the Child Protection Board, for instance, which contains information specially geared to children and young people ([www.derechtenvanhetkind.nl](http://www.derechtenvanhetkind.nl)). Other sites with information on children’s rights and the Convention include [www.unicef.nl](http://www.unicef.nl) and [www.defenceforchildren.nl](http://www.defenceforchildren.nl).

10. The Netherlands' initial report only appeared in English. The present report has been written in both Dutch and English in order to comply with Recommendation 9 of the Committee. Once the report is finalized it will be made available to NGOs and placed on the web site of the Ministry of Foreign Affairs.

### **Other activities to publicize the Convention**

11. In 2000, in response to Recommendation 8 of the Committee, the Ministry of Health, Welfare and Sport and the Ministry of Justice set up an interministerial consultative group on the Convention on the Rights of the Child. Representatives of the relevant ministries and of NGOs in the field of children's rights meet twice a year to discuss the Convention.

12. In the run-up to the United Nations General Assembly Special Session (UNGASS) on Children - now postponed to 2002 - the Netherlands, together with other EU member States, has lobbied to incorporate the Convention in the outcome document of the UNGASS on Children and to integrate a human rights-based approach into that document.

13. The initial report refers to the information campaign "By talking, you can do yourself justice", aimed at making adults and children more familiar with the provisions of the Convention. The campaign activities included the publication of a leaflet on children's rights, a children's rights festival, a youth debate in the House of Representatives and a youth referendum.

14. Many of these activities have since become part of the Dutch strategy on youth participation. In 2001, for instance, the sixth national youth debate was held. The concept of the youth debate has been broadened. In the run-up to the debate in the House of Representatives, debates are held in all 12 Dutch provinces, at which young people can express their views on subjects they feel strongly about. The Rights of the Child Festival has also become a recurring event. Talks are held with the Dutch NGO Coalition for Children's Rights concerning other activities that could help publicize the Convention. An updated version of the leaflet "By talking, you can do yourself justice" will be published shortly. Many government publications about children and young people take the Convention as their starting point. They include the English-language publication *Children and Youth Policy in the Netherlands (2001)*, which provides an overview of Dutch youth policy based on the three Ps from the Convention - participation, provisions and protection. A copy is annexed to the present report.

### **C. Availability of reports (art. 44, para. 6)**

15. In response to Recommendation 31 of the Committee, the Ministry of Foreign Affairs placed the initial report submitted to the Committee and recommendations thereon on its web site for a time. The Committee's final report was translated into Dutch in 2000 and made available to interested NGOs and others. The present report and related documents will be disseminated widely.

## **II. DEFINITION OF THE WORD “CHILD” (art. 1)**

16. For this definition, please see the initial report.

17. For children’s access to the courts in matters of family law and the law of persons, please see part V, under A.

### **Access to information about a biological parent**

18. A bill containing rules on the storage and provision of information about artificial insemination (AI) donors is at present before Parliament.

## **III. GENERAL PRINCIPLES**

### **A. Non-discrimination (art. 2)**

#### **Heavier sentences for certain types of racial discrimination**

19. The Government of the Netherlands intends to increase the maximum sentences for structural forms of racism. A bill is at present before Parliament.

#### **Discrimination based on age**

20. The Government has been planning for some time now to give the ban on age discrimination a statutory basis. It is now obliged to do so, since the European directive establishing a general framework for equal treatment in employment and occupation (Directive No. 2000/78/EC) entered into force on 2 December 2000. In July 2001, a bill to implement the directive, entitled “Equal treatment on the basis of age in employment, the professions and professional education” was sent to the Council of State for advice. The bill bans any distinction made on the grounds of age unless such discrimination can be objectively justified in view of a legitimate aim and the means used to achieve that aim are appropriate and necessary. The bill is expected to be introduced in the House of Representatives at the end of 2001 or early 2002.

### **B. Best interests of the child (art. 3)**

#### **Family supervision agencies**

21. The family supervision agencies carry out their duties within the legal framework laid down by law and the supplementary conditions imposed by the Government regarding the quality of their work. A debate on improving quality has been in progress for some years. In order to achieve real improvements on the ground, extra funds were released in 2001 with the aim of increasing the amount of time family supervisors can spend with their clients.

22. The Child Protection Board plays an important role in the process that takes place prior to a court decision on a protection measure, an access order following divorce and hearings in criminal cases. In recent years, efforts have been made in children’s interests to ensure that the Board’s work of advising the courts is put on a professional basis, and to improve quality. This has led to new policy rules governing the Board’s activities, so that the manner in which it operates has become more transparent. In 1998, the Verwey-Jonker Institute examined the



Board's assessment activities as part of an evaluation of supervision legislation. This study showed that the Board performed this part of its mandate inadequately in three situations: when family supervision agencies reported that a supervision order was not to be extended, when a care order was not extended by the courts, and when a care order was prematurely terminated. The Institute's conclusion was that clarification was required concerning the criteria according to which the Board makes its assessments, in what circumstances the Board conducts its own investigations and when not, and what the consequences are for the decisions taken by the Board. The findings of a study made by the Family Council concerning the termination of placements of children subject to a care order in foster families are in line with the Institute's conclusions. The Family Council noted that termination of or the intention to terminate a placement in a foster family is in many cases not reported to the Board. The Council urged that this situation be rectified. The problems these studies identified and their recommendations have been incorporated in a checklist now being used to achieve a more uniform way of working.

### **New Youth Care Act**

23. As part of the efforts to further strengthen the rights of the child, a bill will be introduced in Parliament at the end of 2001 or early 2002. The Youth Care Act is expected to enter into force in 2003 and will replace the present Youth Services Act. Central to the new legislation is the right to care. A youth care office will be set up in each province providing young people with easy access to care services based on the needs and wishes of the person in question. Once a young person has registered with a youth care office, he/she is screened and then the office uses the information to decide, together with the careseeker, what form of care is appropriate and to draw up a care plan. The final version of the proposed legislation will give parents or carers as well as young people a greater role in the process as a whole.

24. In the past years, the Youth Services and Youth Protection Inspectorate has from time to time conducted an investigation and published a report in response to a report or request from an institution. By implementing the recommendations contained in these reports, the bodies with a statutory responsibility for youth care and protection will improve the quality of their work. In 2000, the Inspectorate monitored the primary care process in a large number of provinces and urban regions. On the basis of the results, agreements have been made on improvements and on follow-up checks by the Inspectorate from 2001 onwards.

## **C. Right to life and development (art. 6)**

### **Termination of life on request**

25. The due care criteria governing agreement to a request to terminate the life of a patient are laid down in the Act of 12 April 2001 (Bulletin of Acts and Decrees 194). These provisions also apply to young people. They state that where the person involved is 18 or older, his or her parent or guardian does not in principle need to be involved in the decision, but if the patient is between 12 and 16, they do. If a parent or guardian refuses consent, the request will not be granted. People between 16 and 18 may decide for themselves if they wish to terminate their lives since they are considered to be capable of making a reasonable assessment of their own interests. Patients who are 16 or over may refuse medical treatment (article 7:450 of the Civil Code). If they do so, the question of euthanasia may arise. Just as with adults, the basic principle with regard to euthanasia for minors is that any steps taken must be in line with

prevailing medical opinion and in accordance with the norms that apply in medical ethics. What is more, the physician concerned must exercise sufficient care to ensure that there can be no question of arbitrary termination of life. In fact, there are very few requests for euthanasia from minors. Where the patient is between 16 and 18, in practice there is usually consensus between him/her and the parents or guardian.

### **General due care criteria governing euthanasia**

26. The statutory criteria that doctors must comply with in cases where a patient wishes to have euthanasia or assistance with suicide are as follows.

The doctor must:

- be satisfied that the patient's request is voluntary and well-considered;
- be satisfied that the patient's suffering is unbearable and that there is no prospect of improvement;
- inform the patient of his or her situation and further prognosis;
- have come to the conclusion, together with the patient, that there is no reasonable alternative;
- have consulted at least one other physician with no connection to the case, who must have seen the patient and given a written opinion on the due care criteria listed above;
- exercise due medical care and attention in terminating the patient's life or assisting in his/her suicide.

See also part IV under G regarding the Medical Treatment Contracts (Young People) Act.

### **D. Respect for the child's opinion (art. 12)**

#### **Youth participation**

27. The activities organized by youth organizations and the way they work form an important element in participation policy. The Ministry of Health, Welfare and Sport provides grants to 24 national youth organizations (total membership 416,873) that meet a range of criteria.

28. In 1999, young people taking part in the National Youth Debate - an annual debate between youngsters and the members of the Government - urged the establishment of a national youth council. The Netherlands does not yet have such a council, in contrast to many other European countries which have had one for several years. Shortly afterwards, the executive boards of a number of umbrella youth organizations decided to work together on establishing a national youth council. In June 2001, they did just that. The Council will have two core tasks: first, encouraging and supporting participation by young people and second, representing young

people and their organizations and bringing them into contact with each other. The National Youth Council will not take over the work of well-functioning youth organizations, but will play a coordinating and supporting role. The Ministry will make a grant available over a period of three years to help the Council carry out its tasks.

29. In the past year various organizations representing the interests of young people from ethnic minority groups have been set up. They often lack support and do not know how to apply for the grants and funds available. The Ministry of Health, Welfare and Sport is investigating whether it can assist in setting up an electronic helpdesk for these organizations.

### **Helping children to express their views**

30. In accordance with Recommendation 9 of the Committee, a meeting was organized by the Ministry of Justice in June 2001 on the range of courses currently available on the rights of the child and to discuss whether more courses were needed. Those present at the meeting included the Coalition for Children's Rights, the Association of Family and Divorce Lawyers, the Association of Criminal Lawyers, the Training and Study Centre for the Judiciary and the children's judges working party of the Netherlands Association for the Administration of Justice. It was agreed that the Coalition for Children's Rights would prepare a draft folder containing basic material on the rights of the child. In October 2001, this draft version would be discussed at a follow-up meeting, concentrating on how such a folder could be used by the various organizations, either by individuals or as training material. See also part V under A (minors, right of access to the courts).

### **Study of the role of the children's ombudsman**

31. In Recommendation 12, the Committee advised the Netherlands to set up a children's ombudsman. In 2000, the Government commissioned a study of the activities such an ombudsman or similar body might be expected to perform, comparing them with what happens in other countries. These comprise advice, dealing with complaints and monitoring compliance with the Convention. The study's most important conclusion was that in the Netherlands, certain activities (in particular advice and dealing with complaints) are already being performed by other organizations. There is no specific Child Convention monitor supervising the implementation of the Convention.

32. A further study on the various functions of the children's ombudsman and whether these can all be brought together in one high-profile institution is under way. The Ministers of Justice and of Health, Welfare and Sport will inform the House of Representatives on the results of the study and their views in this regard.

## **IV. CIVIL RIGHTS AND FREEDOMS**

### **A. Name and nationality (art. 13)**

#### **The law on names**

33. On 1 January 1998 the law on names was amended in one important respect. Since that date, parents have been able to choose whether the child will take the father's or the mother's surname. Once this choice has been made, any subsequent children take the same surname. The

choice of name may be made on acknowledgement of the child, when a judicial declaration of paternity is issued, when an adoption order is made and before or at the latest at the birth of the child.

34. A child born during a marriage between a man and a woman takes the father's name unless a choice is made for the mother's name, as in the case of adoption by an opposite-sex couple. If the adoptive parents are not married, or are of the same sex and married to each other, the child keeps the surname he/she already has unless a choice is made for the surname of one of the adoptive parents. If a child is adopted by and thus enters into a family-law relationship with the spouse, registered partner or other life partner of his/her parent, he/she keeps his/her surname unless a choice is made for the surname of the spouse or partner. In the case of acknowledgement or a judicial declaration of paternity, the child bears the mother's name unless a choice is made for the father's surname at the time of the acknowledgement or judicial declaration.

35. A child that has a family-law relationship with both parents by birth takes the father's name unless a choice is made for the mother's name before or no later than the birth. If the child is 16 or over at the moment of entering into a family-law relationship with both parents, he/she declares to the registrar of births, deaths and marriages - or in the case of a judicial declaration of paternity, to the court - which surname he/she wishes to take.

### **Right to nationality**

36. On 1 October 1998, the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption entered into force for the Netherlands. As a result, the Netherlands Nationality Act stipulates that children adopted in accordance with this Convention will automatically acquire Dutch nationality. It is no longer necessary, therefore, to apply to the courts in the Netherlands.

### **B. Freedom of expression (art. 13)**

37. Freedom of expression is enshrined in article 7 of the Dutch Constitution (see paragraphs 85 and 86 of the initial report). It is also codified in the human rights instruments to which the Netherlands is a party, including the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) and the International Covenant on Civil and Political Rights. Article 10 of ECHR is of particular interest in this connection. Paragraph 1 of this article states that everyone has a right to freedom of expression, a right which embraces the freedom to hold opinions, to receive and impart information or ideas without interference from any public authority and regardless of frontiers. This right may be restricted only if the requirements of article 10, paragraph 2, have been met.

38. According to the Dutch Constitution and the human rights instruments referred to above, children have exactly the same right to freedom of expression as adults do. It should be noted in this context that Dutch criminal law does not apply to children under the age of 12. The provisions of the Criminal Code relating to criminal utterances, which constitute a restriction on the freedom of expression, do not therefore apply to children under 12. In this sense, the freedom of expression of children under 12 is greater than that of people over that age, in that they can never be prosecuted for such offences.

### **C. Access to information (art. 17)**

#### **Broadcasting and children**

39. The public broadcasting organizations broadcast programmes specifically for children and young people. At least 35 per cent of television programmes should have informative and educational features. In the afternoons, the public broadcasters provide a cluster of children's programmes under the title "Zeppelin". The Netherlands Programme Foundation (NPS), one of the public broadcasting companies, has a statutory obligation to ensure that its programmes have educational features targeting young people. In addition, 20 per cent of its television broadcasting time and 25 per cent of its radio broadcasting time must be devoted to programmes about the multicultural society intended for ethnic minority groups.

40. The Netherlands Broadcasting Corporation (NOS), the public broadcasting umbrella organization, has a statutory obligation to provide news programmes for children and young people. It funds "Kinderkast", a foundation that promotes high-quality programmes for children and provides information about teaching children to use television in a way that is beneficial to their development. Dutch broadcasting organizations regularly win international prizes for their children's programmes.

#### **Reading**

41. The Government of the Netherlands actively promotes reading among young people. It works with various private organizations active in this field. Traditionally, children and young people are a primary target group for public libraries. This is reflected in a recent policy plan produced by the Public Libraries Association, which works closely with schools. Most libraries do not charge subscription fees to children under 16. This has proved successful: 80 to 90 per cent of Dutch children are library members.

42. Dutch writers and illustrators of children's books are successful on the European market as well as at home. The Government promotes publications for children, children's juries help evaluate children's books and children's authors visit schools.

#### **Protection against injurious information**

43. Young children in particular have to be enabled to choose and learn from the great array of programmes on offer. Recently, the Dutch Institute for the Classification of Audio-visual Media (NICAM) was set up to organize a system of self-regulation in the classification of audio-visual material. The main aim of the system is to protect minors from harmful programmes. The Government will evaluate the system in the next few years.

44. NICAM works with Internet organizations and has been designated as the body which will carry out the guidelines on harmful programmes contained in the EU directive "Television without frontiers".

#### **D. Freedom of thought, conscience and religion (art. 14)**

45. Freedom of religion and belief, as enshrined in article 6 of the Dutch Constitution (see paragraphs 97 and 98 of the initial report) and in human rights instruments to which the Netherlands is a party, applies to everyone within Dutch jurisdiction whatever their age. It therefore applies in equal measure to children.

46. The concept of religion, as enunciated in the General Equal Treatment Act as a ground on which no distinction may be made, refers not only to holding a particular belief, but also to professing that belief. Actions that, in view of their nature and their significance in terms of religious rules and prescriptions give direct expression to religious belief, are also protected by the ban on discrimination on grounds of religion. If a Muslim woman covers her head, this may be seen as an expression of her religious belief.

#### **E. Privacy (art. 16)**

47. Dutch legislation (the Medical Treatment Contracts Act) contains a provision on minors that is in line with the principles laid down in articles 12 and 16 of the Convention. In substance, it states that:

- from the age of 16, patients are competent to enter into a medical treatment contract on their own account, and to perform legal transactions directly connected to that contract;
- minors who are still under the age of 12 must be represented by their parents or guardian. Medical staff must also give children under 12 information, where possible;
- minors between the ages of 12 and 15 must in principle give their consent - as must their parents or guardian - for any medical procedure. If parents or guardian refuse consent, the procedure may be carried out if it is the patient's considered and persistent wish. If a minor who is capable of a reasonable assessment of his/her own interests refuses consent, the procedure may not be carried out even if the parents or guardian have consented;
- notwithstanding the rules for consent outlined above, if minors between the ages of 12 and 15 are deemed to be capable of a reasonable assessment of their own interests, all the other obligations resting on medical staff are to be fulfilled vis-à-vis the minor him/herself (and not vis-à-vis the parents or guardian). This comprises provision of information, access to or destruction of medical files and professional confidentiality. Also included is the right not to be informed, except where the disadvantage for the patient or others arising from not being informed outweighs the patient's interest in not knowing. Although the obligation to ask for the consent of parents or guardian entails the provision of information, medical staff may decide not to inform them if to do so would conflict with their duty of care. In practice, therefore, a minor patient may prevent doctors from providing information to parents or guardian (professional confidentiality);

- if a minor who is older than 11 is not capable of a reasonable assessment of his/her interests, he/she must be represented by his/her parents or guardian. Where possible, the patient is then informed. If such a minor objects to a serious medical procedure, it may be performed only if it is clearly necessary in order to prevent serious consequences for the patient;
- consent from representatives is not required if the procedure is clearly urgently necessary to prevent serious consequences for the patient. Consent will be assumed to have been given if the procedure is a minor one;
- the duty of care resting on medical staff may also constitute a limit on the authority of a parent or guardian.

#### **F. Torture or other inhuman or degrading treatment or punishment of children (art. 37 (a))**

##### **Young Offenders' Institutions Framework Act (BJJ)**

48. Young people detained in young offenders' institutions live in groups. They may take part in communal activities for 12 hours a day during the week and eight and a half at weekends. In certain cases laid down by law this freedom may be restricted (sects. 23 and 24 of BJJ). A more radical form of restriction is isolating a young person in his/her room or in a special isolation room (sects. 25 and of 26 of BJJ). Chapter VII of the Act contains measures that constitute a restriction on a young person's right to bodily integrity and privacy. These include taking photographs and fingerprints, searching the young person's room and clothing, strip searches, urine checks, body cavity searches, enforced medical treatment, use of mechanical means of restraint and the use of force. In each case the Act clearly stipulates who is competent to order such a measure and under what circumstances. The consent of the young person's representatives is not required if measures are urgently needed in order to prevent serious harm. Consent is assumed if the measure is a minor one. The duty of care resting on the staff in the institution may also constitute a limit on the authority of a parent or guardian. For more information on the Young Offenders' Institutions Framework Act, see part VIII. B (2).

#### **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

##### **General introduction**

##### **Statistics**

49. As at 1 January 2000 there were 3.5 million children (aged 0-17) in the Netherlands, out of a total population of 15.9 million. They account for 22 per cent of the population. One in five young people are from an ethnic minority; half of them are from Western European countries; the other half are from non-Western countries.

50. Most young children live in a household with two parents. The older the children are, the more likely they are to live in a one-parent family. Some families have always been one-parent families, but most begin as two-parent families and lose a parent as a result of divorce or death. In 1999, 14 per cent of 12-17-year-olds lived in a one-parent family. For this purpose, families

with a stepmother or stepfather are regarded as two-parent families. The proportion of children affected by divorce is therefore greater than the number of one-parent families would suggest. Around one in six children experience divorce.

### **Changes in family structures**

51. There have been considerable changes in family structures in the Netherlands in recent years. These changes have now also been recognized by law. Since 1998 it has been possible for partners to enter into a registered partnership as an alternative to marriage. This applies equally to same-sex couples.

52. Since 1 April 2001 it has also been possible for two people of the same sex to marry. The law of parentage has also been reviewed. The terms “legitimate child”, “illegitimate child” and “natural child” have now been replaced by the concept of a family-law relationship with a child. The terms “biological father”, and “donor” are new. Legal maternity is now also recognized by law.

53. Since 1 April 1998 the courts have been able to establish paternity on the basis of the fact that a man fathered a child or of the fact that, as the mother’s life partner, he consented to an act that could have resulted in the conception of the child. An application for a judicial declaration of paternity can be submitted by the mother, unless the child has reached the age of 16, or by the child. The death of the man presents no obstacle. Paternity cannot be established if the child has a father, the man and the mother of the child would not be allowed to marry, or the man is a minor below the age of 16. The mother must submit her application within five years of the child’s birth or within five years of the day on which she is informed of the identity and whereabouts of the natural father.

### **A. Parental guidance (art. 5)**

#### **Adoption**

54. Adoption is no longer reserved for married couples. A single person can also adopt a child. It is now also possible for two people of the same sex to adopt. This gives children born to or being cared for and raised by two people of the same sex in a permanent relationship the statutory protection they need. It is only possible for Dutch children to be adopted in this way, because the countries from which most children for adoption come prefer adoption by a married couple. Adoption within same-sex couples is most likely to be by the female partner of the child’s mother or the male partner of the child’s father. One extra condition applying to this type of adoption is that the child can expect nothing more of its original parent(s). This is regarded as appropriate in view of the caution with which adoption needs to be approached. The principle is that, where possible, family ties with the original parents should persist (see also part V, section G).

#### **Responsibility and guardianship**

55. Both parents continue to bear parental responsibility for the child, even after divorce. This can change only if one or both parents ask a court to rule that, in the interests of the child,



parental responsibility should be granted to one of them. The view is that divorce should intrude on respect for family life as little as possible (see article 8 of the European Convention on the Protection of Human Rights and Fundamental Freedoms).

56. Since 1998 it has been possible for responsibility to be exercised jointly by one parent and another person who is not the parent of the child, if this person has a close personal relationship with the child. This arrangement reflects situations where the parent, his or her partner and the child live as a family. It is also possible for a guardian and another person who has a close personal relationship with the child to exercise joint guardianship. Placing the family situation on a statutory footing in this way is in the interests of the child.

57. The legal provision underlying parental responsibility (1:247 of the Civil Code) takes the duty to care for and raise a child to include promoting the development of his/her personality. Under the law, the parents of the child must take account of its opinion to the extent that its personality has developed and of its growing need for independence. (See also the Social and Cultural Planning Office's 2000 report on young people, which states that in most families children are raised to be independent, and that their upbringing is both supportive and authoritative.)

#### **Non-discrimination and the interests of the child in family life**

58. Non-discrimination and the interests of the child have been the main driving force behind the development of the forms of cohabitation described above. Children are given equal status as much as possible, irrespective of the type of household in which they live. The same applies to the parents, their partners, carers and guardians.

59. The principle that the interests of the child should be served as well as possible is reflected in many legislative provisions, including those relating to the retention of shared parental responsibility by parents after divorce, the possibility for a parent and partner to exercise joint responsibility and for a guardian and partner to exercise joint guardianship. The interests of the child are not only the parents' main concern. Courts also give the interests of the child priority when deciding on responsibility and access. The case law regularly refers to the Convention, and the principles are clearly applied (see the judgements by Den Bosch Court of Appeal, 8 September 1999, NJ 2000/401 and of Utrecht District Court, 8 September 1999, NJ 2000/286).

#### **Minors' right of access to the courts**

60. Courts will give minors aged 12 or over the opportunity to express their opinion regarding matters affecting them, with the exception of matters relating to maintenance. Children aged 16 or over may express their opinion regarding maintenance. Minors below the age of 12, or below the age of 16 in matters of maintenance, may, in some cases, express their opinion in a manner determined by the court. A court may give a decision, *ex proprio motu*, if it believes that a child aged 12 or over so desires, regarding exercise of responsibility after divorce, establishing and amending access arrangements and establishing and amending arrangements regarding information and consultation. The latter arrangements refer to the obligation of a

parent bearing sole parental responsibility to inform the other parent of important matters relating to the child's person and property, and to consult the other parent prior to taking any decision on these matters. A minor below the age of 12 has the same rights if he can be regarded as capable of making a reasonable assessment of his interests.

### **B. Parents' responsibility for the upbringing and development of the child (art. 18, para. 1)**

#### **Combining work and family**

61. Recognition of the principle that both parents are responsible for the upbringing and development of the child is fostered, among other things, by policy designed to make it easier for both men and women to combine work and family responsibilities.

62. Recent years have seen a sharp increase in the number of women going out to work. In 2000, in more than half of all couples, both partners worked, and further growth is needed for economic, demographic, cultural and social reasons. Although there has been some redistribution of paid and unpaid work between men and women, the latter still take on the lion's share of unpaid care responsibilities, while the former do most of the paid work. Men and women have to be able to adjust their working pattern when they are required to spend more time caring (for children, or for relatives who do not live with them, neighbours and friends, or in the form of voluntary work). To prevent a double burden falling on women, and in view of the recognition by men, women and children that the role of the father in a child's upbringing is very important, a higher proportion of men must take on care tasks.

63. Over the past few years, more attention has been devoted to the creation of conditions that allow men to fulfil this responsibility, not only by the Government, but also by the social partners (employers' federations and unions), and by individual employers and employees. New legislation, collective agreements and the growth of work and care arrangements as a means of attracting new recruits bear witness to this development. The current shortage of labour has been a major driving force behind a change of ethos in a number of leading companies. Their policies on recruitment and terms and conditions of employment emphasize the opportunity to combine work and care as an attractive prospect for potential recruits, so that striking a balance between one's work and private life becomes part of staff's terms and conditions.

64. Several ministries took the following measures in a number of areas in the period 1997-2001:

- adjusting working times and leave arrangements when an employee's situation changes. Since 1 July 2001, the Working Hours (Adjustment) Act has allowed employees to make structural reductions to their working hours in order to combine work and care (see also part VI under E (legislation));
- adjusting various leave and holiday arrangements. For example, the Work and Care Bill brings various new and existing leave arrangements together under one heading (see also part VI under E (legislation));
- expansion of services: childcare, out-of-school care and home care;

- adjustment and extension of the opening times of public services (childcare and out-of-school care), offices, shops, etc.;
- specific tax measures;
- experiments with different daily schedules.

### **Conflicts of interest**

65. If the interests of one or both of the parents bearing parental responsibility, or of one or both guardians conflict with those of the minor child in respect of care and upbringing, a sub-district court may appoint a special guardian to represent the minor. The child itself does not then initiate proceedings; it is merely a matter of replacing its legal representative. The Ministry of Justice's research institute is to investigate how this rule works in practice. It will also look into the possibility of granting minors their own right of access. If the child is placed in a youth protection or custody institution as part of a supervision order, any appeal he or she may make will be declared admissible. It is not necessary to appoint a special guardian in such cases if the legal representative does not appear. This is the line that the courts take.

### **C. Separation from parents (art. 9)**

66. The child may be separated from its parents on the basis of certain child protection measures (supervision order; divestment of parental responsibility, with or without consent). However, such measures may be taken only after the children's judge has assessed the child's interests, taking into account other conditions specified in law (listed in the initial report). The judge may issue a supervision order for no more than a year, and may extend it by no more than one year each time. A care order, whereby the child is removed from the home, is also valid for a maximum of one year, and may be extended by no more than one year each time. A children's judge must review the situation within a year. He/she may rescind a supervision order at the request of the family supervision agency, the parent who bears parental responsibility or the minor, if he or she is aged 12 or over, if the reasons for granting the order no longer apply. Insofar as is necessary in connection with the care order, the family supervision agency may limit the contact between the child and the parent who bears parental responsibility. Decisions handed down by the children's judge are subject to appeal by the applicant or other interested parties.

67. Divestment of parental responsibility without consent is granted only at the request of another parent, a blood relative or relative by marriage up to the fourth degree of consanguinity, the Child Protection Board or on the application of the Public Prosecution Service. This is subject to very strict criteria; in the first half of 2001, the Child Protection Board submitted no such requests.

68. After one parent has been divested of his or her parental responsibility, the other parent may exercise sole parental responsibility. If the other parent does not have responsibility, he/she may apply to the court to be granted responsibility. Such applications are granted only if the

child would be safe enough with this parent. If this is not the case, the family supervision agency will generally be appointed guardian. If the court is convinced that a minor can once more be entrusted to the parent who has been divested of parental responsibility, it can reinvest that parent with parental responsibility on request.

### **Access**

69. The child's right of access to the parent who does not exercise parental responsibility is regulated by law (article 1:377a of the Civil Code). If the parents are unable to agree on an arrangement, the court must impose one. Right of access is denied only if it would be highly detrimental to the child. A court can also establish access arrangements between the child and a person with whom he or she has a close personal relationship. The law does not provide for specific penalties in the event of non-compliance with the right of access. However, more general measures, such as ordering compliance on pain of a penalty payment, may be imposed. A possible role for the Government in mediation and supervision of access is currently being considered. Mediation is already available. For instance, the Child Protection Board holds a number of mediation meetings during its investigation prior to advising the court on parental responsibility and access. In addition, two years ago the Ministry of Justice launched experiments with divorce and access mediation in several parts of the country. The results were recently evaluated by the Free University of Amsterdam and the Verweij-Jonker Institute. Their report was sent to a number of interested parties, such as the Child Protection Board, for their comments. The Ministry is expected to take a decision in early 2002 as to the desirability and feasibility of introducing the system on a structural basis throughout the country.

### **D. Family reunification (art. 10)**

#### **Criteria for family reunification**

70. New aliens legislation came into force on 1 April 2001. The criteria for family reunification are laid down in the Aliens Act 2000, the Aliens Decree 2000 and chapters B2 and 3 of the Aliens Act Implementation Guidelines 2000. They are:

- age: persons who request family reunification must be minors;
- the minor must actually be a member of the family of the relative in the Netherlands with whom he/she wishes to be reunited;
- the relative of the minor must have sufficient means;
- there must be no threat to public order.

71. If the applicant is unable to obtain a residence permit on the basis of the above criteria, he or she can invoke article 8 of the European Convention on Human Rights (ECHR). When the case is reviewed under ECHR, each individual interest of the child and parent that is put forward will be assessed on its merits.

72. An independent study commissioned by the Ministry of Justice, conducted in 1999 by Z.D.H. Steenbergen, T.P. Spijkerboer, B.P. Vermeulen and R. Fernhout and published in

*Internationaal immigratierecht: Verdragen en besluiten van internationale organisaties en internationale jurisprudentie van belang voor het Nederlands immigratierecht*

(International immigration law: Conventions and decisions of international organizations and international case law relevant to Dutch immigration law) concluded that, under Dutch law, applications for family reunification are dealt with in a positive and expeditious manner with no adverse consequences for the applicants and for the members of their family. The researchers also concluded that when applications are rejected, the interests of the child are always taken into account, although reference is not always made to article 10 of the Convention on the Rights of the Child.

73. The principle of non-discrimination is enshrined in the Dutch Constitution, and therefore also applies to family reunification cases. As stated above, every case is reviewed under article 8 of ECHR, taking into account all the child's interests. Parents living in a country other than the Netherlands can request permission for a family visit. If they can show that they have sufficient means to support themselves during the visit, that there are no indications that they will fail to return to their country of origin after their visa expires and that they pose no threat to public order, they will be granted a visa for three months. Parents who wish to stay longer than that can apply for a temporary residence permit for the purposes of a family visit. The granting of such a permit is subject to the same conditions as the granting of a visa. There are no legal obstacles to children residing legally in the Netherlands with a residence permit visiting a parent in another country. Similarly, there are no legal obstacles preventing parents residing legally in the Netherlands from visiting their child in another country.

74. No further measures are needed to implement article 10 of the Convention. As indicated above, Dutch aliens legislation complies with the obligations set out in article 10. The Legal Uniformity (Aliens Affairs) Division of The Hague District Court, which coordinates aliens legislation, made a similar statement in its judgment of 25 September 1997.

#### **E. Recovery of maintenance for the child (art. 27, para. 4)**

##### **Maintenance obligations**

75. The law includes a number of arrangements regarding maintenance. Parents are obliged to contribute towards the costs of the care and upbringing of their minor children, according to their ability to pay (article 1:404 of the Civil Code). Parents are also obliged to provide maintenance for and contribute towards the study expenses of 18-21-year-olds, even though they are above the age of majority (article 1:395a of the Civil Code). By law, people other than the parents may have maintenance obligations; they include the man who fathered the child, step-parents, those who exercise joint responsibility with a parent, and both guardians in the event of joint guardianship.

##### **Problems with payment**

76. Problems with paying maintenance for the child generally occur after the breakdown of a relationship or when there is no relationship at all between the person obliged to pay maintenance and those entitled to receive it.

77. If parents continue to share responsibility after divorce, the idea is that they should agree on how the costs of their children's care and upbringing are paid for. If they are unable to agree, they may apply to a court to establish an arrangement. When there are problems with payment, there are various means of collecting the money owing, including attachment of earnings. A special agency, the National Maintenance Collection Agency (LBIO), can take over collection of maintenance in certain circumstances. It can also use coercive measures. The operation of LBIO is currently being evaluated.

78. Of course the payment of maintenance is in the interests of the child. Minors aged 16 or over are given the opportunity to make their views regarding maintenance known. A court may decide to give minors under the age of 16 the same opportunity. The law regulates various situations in which a maintenance obligation is necessary. Someone is therefore always obliged to pay maintenance so that there is enough money for the child to live on and develop.

79. Besides collecting child maintenance in the Netherlands, under the 1956 New York Convention (on the recovery abroad of maintenance payments), LBIO is also concerned with the collection of child and partner maintenance abroad. It mediates in the collection of maintenance in other countries and collects maintenance in the Netherlands in response to requests from abroad, instituting legal proceedings in the latter cases if necessary. LBIO and foreign institutions that collect maintenance under the New York Convention do so free of charge.

#### **F. Children temporarily or permanently deprived of their family environment (art. 20)**

80. A memorandum on improvements to foster care was issued in 1997, followed by the launch in 1998 of a project to bring innovation and quality improvements to foster care. Two documents entitled "Foster care within a changing youth care sector: a vision for the future" and "Foster care with vision: legal pitfalls" have been produced as part of the project. These two documents were presented to the House of Representatives in May 2000. They are based on the "support variant" and the "placement variant". The debate will focus on these two variants.

81. The support variant focuses on restoring the original family context. Unless it is against the interests of the child, it is preferred that children grow up in their own family rather than in another environment. In this variant, assistance in the form of intensive counselling - combined with partial and/or temporary removal from the home - is used to enable the child to return home as soon as possible. If, despite all the efforts, it appears that, in the interests of the child, this is not a realistic option, the second variant comes into play: the "placement variant". This involves finding a permanent home for the child in another environment, in this case a foster family. This has to be accompanied by some form of transfer of responsibility.

#### **G. Intercountry adoption (art. 21)**

82. The Youth Services and Youth Protection Inspectorate drew up plans in 2000 for monitoring the bodies that put prospective adoptive parents in touch with children given up for adoption, and that have a licence to do so issued by the Ministry of Justice. Monitoring work actually began in 2001, ensuring that intercountry adoption meets the same standards as regular adoption within the Netherlands. Where this is not the case and it is suspected that in the country of origin, in a significant number of cases, parents offer their child for adoption involuntarily or

after being offered money, or that in a significant number of cases the woman who offers the child for adoption is not the mother, adoption from that country can be suspended. Adoptions from Guatemala, for instance, have been suspended until further notice for this reason.

#### **H. International child abduction (art. 11)**

83. To ensure adequate implementation of international conventions on child abduction, the Ministry of Justice has designated a central authority to act on behalf of the Dutch State in the event of international child abduction. Under the conventions, the Dutch central authority may trace the whereabouts of the child, represent the interests of the child and the parent requesting recovery of the child and promote and arrange the return of the child, if necessary by means of legal proceedings. Under the terms of the conventions the central authority can also promote and arrange the establishment and implementation of international access arrangements. The authority received 35 requests in 1990, and between 65 and 70 a year between 1995 and 1999. In 1999 it received 70 requests, and in 2000 a total of 88 requests.

84. The Netherlands is not in favour of bilateral agreements on adoption and child abduction. It prefers to use the existing multilateral agreements: the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the 1980 Hague Convention on the Civil Aspects of International Child Abduction. In Recommendation 15 the Committee on the Rights of the Child recommends that the Netherlands conclude bilateral agreements with countries that are not party to the relevant multilateral conventions. The Netherlands is not in favour of this, because entering into bilateral treaty negotiations might prevent States from becoming party to multilateral conventions.

#### **I. Domestic violence, sexual abuse of children and neglect (art. 19)**

##### **Forms and figures**

85. Domestic violence is physical, psychological or sexual violence perpetrated by someone in the victim's home environment. Perpetrators can include partners, ex-partners, relatives or close family friends. Sexual abuse of children, including incest, takes many forms. It occurs both within the home and outside (schools, sports clubs and institutions) or in a commercial setting (child prostitution, trafficking in children, child pornography and sex tourism).

86. It is possible to distinguish between sexual abuse of children in a commercial and non-commercial setting, but the two cannot be separated. The Netherlands has therefore opted for a strategy that targets both. Various studies commissioned by the Ministry of Justice have shown that in recent years domestic violence and sexual abuse of children are not an incidental problem. They occur on a fairly large scale. Over 40 per cent of Dutch people (adult men and women) have been the victim of violence in the home. Eleven per cent of them suffered physical injury as a result. In over 20 per cent of cases, the violence lasted for several years. One in nine children falls victim to physical violence in the home between age 5 and 10. Among 10-20-year-olds the figure is one in five.

87. Among the victims of sexual abuse in the home environment, 45 per cent are below the age of 18 when the abuse first occurs. Sexual abuse of children outside the home is more difficult to trace. It occurs largely in the illegal and informal circuit. The number of police investigations of child pornography has increased sharply in recent years, more than tripling since 1996 (1996: 40 investigations; 2000: 130 investigations).

88. Domestic violence and sexual abuse have devastating consequences for children and their development. An estimated 30 per cent of children who end up in care homes have either been witness to or victims of violence within the family. A study is under way to establish the impact of domestic violence on children's further development.

### **Advice and Reporting Centres for Child Abuse and Neglect**

89. In October 1997, at the request of the State Secretary for Health, Welfare and Sport and the State Secretary for Justice, the Advice and Reporting Centres for Child Abuse and Neglect Working Party issued a report. It found that not all identified cases of child abuse were being reported. One of the main reasons was that people were not aware of where they should report such cases. The State Secretaries therefore felt it important to set up one clearly recognizable place where people could go for advice or to report suspected cases. These would be known as Advice and Reporting Centres for Child Abuse and Neglect, or ARCANS. The establishment of ARCANS is in line with Recommendation 17 of the Committee.

90. Since 1 January 2000, the ARCAN network has covered the entire country. A national telephone hotline for reporting child abuse is now also in operation.

91. Besides giving advice, ARCANS investigate reports of child abuse or suspected child abuse. Since the ARCAN network was set up, it has been possible to establish the scale and seriousness of the problem and adopt a targeted approach to tackling it. ARCANS will also provide access to youth care - as a future part of the youth care offices (see under part VI, "Youth Care"). The provincial authorities are responsible for controlling the supply of assistance, while the central Government directs and coordinates policy by creating the right conditions.

	1997	1998	1999	2000
No. of reports	6 185	5 100	5 738	5 801
Advice (cases)	8 348	11 108	13 688	15 549

*Source:* Netherlands Institute for Health and Social Services: Advice and reports: ARCAN annual figures 1998, 1999 and 2000.

### **National action programme and project team**

92. Cooperation and coordination between government bodies, civil society organizations and NGOs are essential if domestic violence and sexual abuse are to be tackled effectively. Policy on preventing and tackling sexual abuse is based on the Convention. A world conference against the commercial exploitation of children was held in Stockholm in 1996. All 122



attending countries, including the Netherlands, undertook to draw up a national action programme by 2000. The Dutch national programme was presented to the House of Representatives in spring 2000. The Netherlands has thereby met its commitment to the Stockholm conference and fulfilled the Committee's recommendation No. 28. The programme also links up the activities of the various ministries and organizations, and therefore establishes links between different policy areas. A project team has been set up, with members representing ministries and non-governmental organizations. It is known as the NAPS project (National Action Plan against Sexual Abuse of Children) and is directed by the Ministry of Justice.

### **Domestic violence project**

93. A special domestic violence project was launched in 2000 with the aim of developing, implementing and transferring methods as rapidly and systematically as possible. The project involves the Ministry of the Interior and Kingdom Relations, the Ministry of Education, Culture and Science, the Ministry of Social Affairs and Employment and the Ministry of Justice, as well as several implementing bodies, the Association of Netherlands Municipalities and the Association of Provincial Authorities. It will run until 1 April 2002. By then, the methods and cooperative models developed should form an integral part of the policy of institutions and the authorities.

94. The processes outlined below have been set in motion to supplement the instruments available to the Government for preventing and tackling domestic violence and sexual abuse of children.

### *Amendments to legislation*

95. A bill is currently before Parliament proposing amendments to the Youth Services Act in order to provide ARCANS with an appropriate statutory basis. The bill is designed to provide a solution to the legal problems that can prevent ARCANS from functioning properly. The main problems are associated with delineation of responsibilities, dealing with private information, and reporting procedures. The bill therefore includes a definition of ARCANS' tasks, rules on the provision of personal information without the permission of the person concerned and rules limiting the obligation to inform the person concerned that personal information is being provided. It also includes powers for care providers and professionals, and other people with a duty of confidentiality under the law or by virtue of their profession or office, to report actual or suspected cases of child abuse. It is proposed that a provision be included in the Youth Services Act to the effect that the duty of confidentiality (medical or otherwise) may be breached if it is regarded as necessary to bring child abuse to an end or to investigate a reasonable suspicion that child abuse is taking place.

96. These amendments anticipate the introduction of the Youth Care Act, which is to replace the Youth Services Act (see part III, under B). ARCANS will become a recognizable part of the Youth Care Offices, which will function as the gateway to youth care services. The Agencies will also be responsible for youth protection.

*Training professionals*

97. Anyone who is likely to come across situations involving domestic or sexual violence in the course of their work should have specific knowledge that allows them to identify such situations and respond accordingly. The Ministry of Justice has commissioned a study into the attitude of the police to signs and reports of domestic violence. Police training now includes special modules on how to deal with domestic violence. Study modules on the early identification of sexual violence are being developed for professionals who are likely to encounter such situations.

*Development of methods*

98. Central Government plays an important role in developing and disseminating new methods. Resilience training is important in the prevention of sexual abuse and other forms of violence against children. It is not the only prevention instrument used, but forms part of a broader preventive strategy, which also includes Marietje Kessels projects. Marietje Kessels was a victim of sexual violence in the early twentieth century. Her name is given to training courses in which children not only learn social skills, but also learn how to defend themselves against threats to their physical integrity. The courses are taught in primary schools by specially trained staff to pupils in years 7 and 8 (the top two years of the primary school). The Ministry of Justice finances the courses, which are attended by a growing number of children each year. In the school year 1999/2000, a total of 4,500 children took part in a Marietje Kessels course. The following year, the number had doubled.

*Cooperation models and plans*

99. The police, Public Prosecution Service, care organizations and schools must work together if domestic violence and sexual violence against children are to be tackled effectively. Municipalities are responsible for directing local services, while the provincial authorities are in overall control of youth services. The Ministry of Justice has drawn up a plan containing practical suggestions for a coordinated strategy against domestic violence. All municipalities and provincial authorities have received a copy, as well as a number of other organizations that deal with this matter. The Ministry of Justice has also commissioned a plan of action against child prostitution for municipalities and provincial authorities.

*Research and public information*

100. In recent years various studies have been carried out on the incidence of domestic and sexual violence, the risk factors involved and the risk groups. One important study was carried out by Intomart in 1997 on behalf of the Ministry of Justice. Intomart questioned over 1,000 men and women. A similar study on the incidence of domestic violence in ethnic minority families is currently in progress. The Ministry has published several booklets for the general public on what to do if one is involved in a violent relationship, and how to recognize and deal with child abuse, including one on sexual violence, 120,000 copies of which have so far been distributed. A special handbook on sexual offences has been written for the police, judiciary and care workers. It contains information on the relevant legislation, the help available, addresses

and useful background reading. The Ministry of Justice has also set up web sites for the general public and professionals ([www.huiselijkgeweld.nl](http://www.huiselijkgeweld.nl) and [www.seksueelkindermisbruik.nl](http://www.seksueelkindermisbruik.nl)) and produced a domestic violence information sheet, which is distributed free of charge by municipalities and institutions.

### **Homeless young people**

101. Homeless young people are the responsibility of Youth Care Offices, the police and social services. Municipalities can finance shelters for homeless youngsters from the special social services budget they receive from the central Government. An extra 6.8 million euros a year has been available since 1 January 2001, intended, among other things, for homeless youngsters. Since 1999 the Government has also been providing extra resources to ensure better coordination between local youth policy and youth care. Some of these extra resources (7.6 million euros in 1999, rising to 50 million from 2002) will go to services designed to help homeless youngsters. The aim is to establish administrative agreements on homeless youngsters between national agencies in 2002. The agreements should ensure continuity in the shelter and assistance provided to homeless youngsters at the regional level.

## **VI. BASIC HEALTH AND WELFARE**

### **A. Disabled children (art. 23)**

#### **General**

102. Generally speaking, Dutch policy on disabled children is much the same as the policy on adult persons with disabilities. In other words, specific facilities are provided or measures taken for disabled children only when this is necessary. Examples are early detection of developmental disorders, outpatient care and services, day-care centres, special schools and special educational centres for young people with slight mental disabilities.

103. As in the case of youth policy, two parties are involved in the establishment of policy on the disabled: the Government (central, provincial and municipal) and private sector bodies (i.e. civil society organizations). The Government establishes the regulatory framework, provides funding, plans, supervises, advises and coordinates. The private institutions do the work and check the quality. The aim of Dutch policy on the disabled is to ensure that, irrespective of age and sociocultural background, people with disabilities are able to participate actively in society and develop their talents as fully as anyone else. Two of the central planks of this policy are the need to promote the participation and protect the rights of the disabled. In the case of disabled children, the aim of the policy is to enable them, wherever possible, to attend ordinary schools and to take part in ordinary sporting and leisure activities.

104. The growing assertiveness of young people means that groups of young people are endeavouring to escape disadvantage by overcoming their own problems. This is true, for example, of young physically disabled people. The Government of the Netherlands subsidizes the following bodies of this type: the youth section of the Dutch Council for the Disabled, the Organization for Partially Hearing Young People, and the Youth Committee of the Council for

the Deaf. It also subsidizes a number of parents' organizations representing the interests of children with disabilities. Examples include the Federation of Parents' Associations (mentally disabled), FODOK and FOSS (hearing-impaired), BOSK (physically disabled) and BALANS (children with behaviour problems).

105. Below is a description of the various facilities that the Netherlands provides for children with physical or mental disabilities.

#### **Facilities for mentally disabled children**

106. The following facilities are available for mentally disabled children:

- 125 general institutions providing long-term 24-hour care for the mentally disabled. Relatively few children are resident in these institutions. The services provided include residential care, treatment and education. In addition, day care is provided for children living at home and a start has also been made with an outreach scheme whereby facilities are provided at home. There are separate residential institutions for people with multiple disabilities and for young people with only slight mental disabilities; children resident in these institutions are involved in activities outside the institution during the day, usually some form of education;
- 20 hostels providing residential accommodation and support services for children. Here too the residents are involved in activities outside the hostel during the day;
- Six short-stay residential units providing temporary 24-hour respite care for families in need of support;
- Regular respite homes providing respite care for a maximum of seven days a month;
- 109 special day centres organizing activities designed to encourage the children's development and participation in society;
- Three social care services specifically for mentally disabled people and their families. These units provide information and advice about parenting, education, day care and residential facilities and specific services. Among other things, they provide specialized social services and practical educational guidance for families. The latter is intended primarily for children up to around the age of 6 years.

107. To facilitate early diagnosis, there is a multidisciplinary network for the identification of behavioural disorders in children below the age of 4.

#### **Facilities for the physically disabled**

108. The Netherlands has the following facilities for physically disabled children:

- 16 long-stay residential units providing accommodation and services. The children are involved in activities outside the institution during the day. The majority of them have motor disabilities. A few homes also accommodate people with mental disabilities;

- Seven residential institutions for deaf or hearing-impaired children and six residential institutions for blind or partially sighted children providing accommodation and services for children in special primary or secondary education. Most of the institutions for the deaf also provide services for younger deaf children and their families;
- Home-care organizations that help families with a disabled member;
- Foster care and childcare organizations that specialize in finding suitable childcare facilities or foster families for disabled children;
- Holiday homes for disabled people and their families;
- Experimental units providing regular short-term respite care for the physically disabled, similar to those for mentally disabled children.

109. To facilitate early diagnosis, there is a multidisciplinary network of organizations for the identification of behavioural, developmental or physical disorders in children below the age of 4. These organizations also offer early-years help and assistance to these children and their parents.

### **Legislation**

110. The Government of the Netherlands finances a number of facilities for the provision of care and services under the Exceptional Medical Expenses Act (*Algemene Wet Bijzondere Ziektekosten*). This Act includes provisions on access to special residential accommodation, treatment in rehabilitation centres, home care, prostheses, orthoses, equipment, etc.

111. Under the Services for the Disabled Act (*Wet Voorzieningen Gehandicapten*), the municipalities have a duty to provide a wide range of facilities, including wheelchairs, transport and adaptations to the home. The Act has been in force since 1994 and is based on the idea of one-stop access to all such services in each locality. The municipalities are free to implement the legislation as they see fit and a recent survey shows that there is wide variation on the ground. The Government will strive to reduce these differences.

112. The system of individual budgets introduced on an experimental basis in 1996 has proved extremely successful. It has been expanded and is now a permanent scheme under the Exceptional Medical Expenses Act. It applies to home care and the care of adults and children with mental disabilities. Its aim is to switch from a “facilities-oriented” system of provision to a “function-oriented” one that is more responsive to the wishes of the client and increases the efficiency of the service. Any client requiring care, nursing, support, counselling or treatment for at least three months can opt for an individual budget, which he or she can then use to buy any care from any provider. The client must make his or her own contract with the selected individual or institutional provider. Another scheme is also being devised under which a personal budget would “follow” the client. This could be used to purchase a particular type of care, but only from recognized providers. This system is expected to come into operation on 1 January 2002.

113. The initial report identified inadequacies in the coordination of facilities and services. Coordination by the Interdepartmental Steering Group for the Disabled has now come to an end. A new structure has been created under which the relevant Director-General at the Ministry of Health, Welfare and Sport meets on a regular basis with colleagues from other ministries to discuss issues relating to the disabled. In addition, there is a forum for structured consultation on disablement policy between the central Government, umbrella organizations of and for the disabled and parents' organizations.

114. To reduce the financial difficulties of parents of disabled children (partly caused by rising premiums for medical insurance), the Government has established a new scheme to give an extra financial allowance to parents looking after disabled children in the home. This so-called "TOG" scheme went into operation on 1 January 1997. Following an evaluation, it was expanded in 1999 and the allowances were increased. The grant criteria are as follows:

- (a) The applicant must be resident in the Netherlands and must be looking after a disabled child in the home;
- (b) The child must require the more or less full-time presence of an attendant or carer;
- (c) The child must have a serious physical, mental or psychological disability;
- (d) The child must be between 3 and 17 years of age.

115. The General Disablement Pension Act (*Algemene Arbeidsongeschiktheidswet or AAW*) was abolished in 1997, and on 1 January 1998 a new Act came into force for young people and students aged 17 or over who have become disabled at an early age and therefore do not qualify for wage-related benefits: the Disablement Assistance (Young Persons) Act (*Wet Arbeidsongeschiktheidsvoorziening Jonggehandicapten or Wajong*) (see also part VI, under C, "Changes in the social security system").

### **Waiting lists**

116. To tackle shortages of places in the various kinds of institutions and the waiting lists that result from them, the Government has adopted a specially targeted, two-part approach. On the one hand, it is deploying extra resources (2000: €22.7 million; 2001: €168.8 million; 2002: €201.9 million; 2003: a structural €224.6 million). On the other, attention is being focused on identifying the exact needs of the client and on customizing care. This has proved extremely successful; many clients have been offered individual "care packages", often provided in the home or local community rather than in an institution.

### **Special education**

117. Special schools are available for children in need of special care and attention. Like mainstream schools, they can be either publicly or privately run. There is currently a total of around 1,000 schools providing special education. They include schools for the physically disabled, for children with a hearing or sight impairment and for children with learning and behavioural difficulties. Thanks to the "Going to School Together" policy, there is now close cooperation between mainstream and special schools. The aim is, as far as possible, to integrate

children with learning and behavioural difficulties into mainstream education. Recent figures show that such cooperation is starting to bear fruit. A few years ago, there was a steady upward trend in the number of children attending special schools. More recently, however, there has been a downturn as more children remain in mainstream education. Where the special care arrangements available under the “Going to School Together” policy are not sufficient to meet the needs of a particular child, a personal budget is awarded. The plan is that parents of disabled children should in future be able to choose whether their children attend mainstream or special schools. Children requiring special provision to cope with their disabilities will be awarded personal budgets, which their parents can spend on either special or mainstream education. The right to special provision will then travel automatically with the child.

118. There is also special secondary school provision for children with physical disabilities or hearing or sight impairments and for children who are chronically sick. These are also frequently attended by children with learning and/or behavioural difficulties. Special secondary schools often form consortia with local mainstream secondary schools in order to meet the varying educational needs of their pupils and give them a better chance of success in education and training.

119. The problems mentioned in the initial report with regard to nursing and other medical care in special schools and the confusion about administrative powers and responsibilities have since been resolved. Nursing care is now provided by the home-care organizations and is funded under the Exceptional Medical Expenses Act.

#### **Day-care centres and special schools**

120. The Netherlands has 109 day-care centres for children with mental or multiple disabilities. These children frequently need intensive care or assistance and often receive too little education. In a number of pilot projects currently being run, children from day-care centres have been placed in special schools where they are also receiving the necessary support. The aim is to see how children can be fed through from day-care centres to special schools and to identify the necessary preconditions for this. The projects are being funded by the Ministry of Health, Welfare and Sport and the Ministry of Education, Culture and Science.

121. The Youth Care Bill (see chapter III (B) on youth care) gives slightly mentally disabled children with developmental or behavioural problems access to youth care. It is the intention that they should also be able to use the regional youth care office as the gateway to youth care. This should prevent them from falling between two stools.

#### **B. Health and health care (art. 24)**

122. The Netherlands has an extensive system of health-care provision. A distinction is drawn between children aged 0-4 and those aged 4-19. Unlike other parts of the health-care system, special health-care services for the under-4s are not decentralized. Preventive care for children in this age group is provided by baby and toddler clinics. These are attended by almost all babies and toddlers in the Netherlands. Care for 4-19-year-olds is mainly provided by the school health services (generally part of the municipal health service). All schoolchildren are examined every two years to identify health problems at an early stage. This is funded by the municipalities.

123. National policies on child health education and preventive medicine focus on the following themes:

- Healthy lifestyles: various nationwide campaigns promote healthy eating, e.g. less fatty diets;
- Prevention of smoking and alcohol consumption: there are public information campaigns and a ban on sales of tobacco and alcohol to young people under 18 (forthcoming);
- Treatment of addictions: a complete nationwide network of regional Centres for Alcohol and Drugs is dedicated to the care of people with addiction problems;
- Drug prevention: there are various educational campaigns about the risks of addiction. The Drug Abuse Information Centre has a telephone helpline and distributes information materials;
- Prevention of sexually transmitted diseases (STDs): in 1999, a total of 110,000 people in the Netherlands contracted STDs; 60 per cent of them were aged between 15 and 30. The use of condoms is vigorously encouraged via anti-AIDS campaigns;
- AIDS prevention through peer education: young people who are not in education are the most difficult group to which to communicate information about AIDS. For this reason, young people in this target group are now being trained to communicate such information to people of their own age and type.
- Prevention of teenage pregnancies and abortion: in 1994, 1.6 per cent of all deliveries were to mothers under the age of 20. In 1999, 0.4 per cent of all abortions were performed on girls under the age of 15 and almost 14 per cent on girls between the ages of 15 and 19. These percentages are extremely low, especially compared with the statistics from other countries.

#### **Access for ethnic minorities**

124. Some time ago, the Health Council was asked to advise on measures to improve access to health care for members of ethnic minorities (including ethnic minority children). A project organization was established in 2001 to elaborate and implement the Council's recommendations over a four-year period. The recommendations concern such topics as the promotion of research, the interculturalization of training, and intercultural management in the care sector.

#### **Female genital mutilation (female circumcision)**

125. Female circumcision is regarded in the Netherlands as a form of oppression practised against women. As Dutch policy is to combat such oppression, the Government of the Netherlands rejects every form of female circumcision. The increased number of refugees from



African countries (especially Somalia) entering the Netherlands has created a need for specific policies in this field. Measures aimed at prevention, mainly via public information, have been adopted, and intervention by the justice authorities is employed only as a last resort.

126. In 1994 a bulletin was published under the aegis of the then Chief Medical Inspectorate. This contained practical guidelines on the action to be taken by health-care professionals or social workers where they had reason to believe that a circumcision was about to take place or had recently been performed.

127. In response to recommendation 18 of the Committee, various information campaigns have been run in recent years. For example, in 1996 and 1997 the Federation of Somali Associations in the Netherlands (FSAN) ran a bilingual campaign, and in 1999 the Pharos Association cooperated closely with FSAN on launching a new project to help get across the message on female circumcision within the Somali community. To do this, the Pharos Association intends to train key figures and trusted advisers within the Somali community to provide information. It is important that information is also given to mainstream health-care workers in order to prevent problems and misunderstandings concerning female circumcision.

128. In the Netherlands, female circumcision is equated with assault and, as such, is a punishable offence. If parents commit acts in the Netherlands which can be construed as aiding and abetting a circumcision performed elsewhere, they may be liable to prosecution in Dutch courts.

## **Cooperation with developing countries**

### *Introduction*

129. The Netherlands invests considerable effort in international cooperation on health care. The emphasis is on assisting the least developed countries. Since Dutch policies on health and development cooperation focus principally on improving basic health, they are part of the effort to spend at least 20 per cent of official development assistance (ODA) on basic health care, reproductive health, nutrition, water/sanitation and basic education. In recent years, this figure has consistently been achieved; in 2000 the actual figure was 22 per cent.

130. Considerable financial and technical assistance is given to improve health in the broadest sense of the word, and this assistance is growing. It is distributed via bilateral cooperation, multilateral organizations (mainly World Health Organization (WHO), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA) and the Joint United Nations Programme on HIV/AIDS (UNAIDS), national and international NGOs and global health initiatives. These include various activities which are especially relevant to children, such as mother and child programmes and initiatives, vaccination programmes (e.g. the GAVI campaign), the provision of essential medicines, and programmes for the control and treatment of infectious diseases like tuberculosis and HIV/AIDS. In 2000, the Netherlands was the sixth biggest UNICEF donor in terms of USD.

*Health and nutrition*

131. For years, the Netherlands has targeted aid at multilateral organizations and national/international NGOs to help them protect breastfeeding, improve child nutrition (and related customs) and work on improving domestic food security.

132. Within the context of development cooperation, the Netherlands has striven to publicize the Convention as a means of improving child nutrition and child health. For example, it helps UNICEF and the International Baby Food Action Network to give technical advice to the Committee on the Rights of the Child. This includes, for example, the selection of appropriate indicators for inclusion in reports from countries and NGOs. It also includes the interpretation of legislation in the nutrition and health field, in particular concerning breastfeeding and the International Code of Marketing of Breastmilk Substitutes.

133. In addition, the Baby Friendly Hospital Initiative (BFHI) has done much to advance policy on infant nutrition and to train health workers. However, its achievements are constantly compromised by the actions of the industry, the development of new marketing techniques and the HIV epidemic. The Netherlands continues to support BFHI and its expansion not only from hospitals into the community, but also to organizations engaged in training and capacity-building for the protection, promotion and support of breastfeeding.

134. In the area of domestic food security, the Netherlands has helped NGOs (to the tune of NLG 30 million a year) to adopt a multisectoral, integrated approach to nutritional issues at micro- and meso-level. However, this form of support has now ceased.

135. Over the past decade, the Netherlands has started to provide more active support for the solution of problems concerning deficiencies of trace elements like vitamin A, iodine and iron. The Netherlands and Canada are among the few bilateral donors who provide financial support for the universal addition of iodine to salt. They also support the establishment of a public-private partnership with the salt industry to ensure sustained action to tackle the problem of iodine deficiency (which leads, especially among young children, to enlargement of the thyroid gland and arrested development of the brain). Thanks to the efforts of UNICEF and WHO, far more households now (in 2000) have access to iodine-enriched salt: up from less than 20 per cent of the world population in 1990 to approximately 70 per cent in 1999. The Netherlands has contributed to this advance via the private sector (Akzo), academia and international organizations. It has also helped to convince salt manufacturers of the importance of iodine in salt and of their own role in solving a worldwide health problem.

136. More action is still needed to reduce anaemia due to iron deficiency; the Netherlands has for several years been funding the purchase of iron tablets by UNICEF, but this is still only a drop in the ocean. It is also encouraging initiatives to enrich foodstuffs with iron.

*HIV/AIDS*

137. The Netherlands provides support via many channels for a host of activities relating to HIV/AIDS prevention and the care of AIDS patients. It makes a substantial contribution to UNAIDS and also to its special Africa Initiative. In 2000, the Netherlands was the second largest donor to UNAIDS in terms of USD.

138. Prevention is at present the only approach. More intensive action is required to promote behavioural change amongst adolescents, but this will necessitate action in many different areas to change the prevailing culture. This is illustrated by the many different kinds of activity supported by the Netherlands: social marketing of condoms; life-skills training in secondary schools; the provision of information to ethnic minorities, sex workers and immigrants; public education via street theatre, etc.

139. Prevention of mother-to-child transmission (MTCT) of HIV is part of the overall approach. Making sure that mothers-to-be do not themselves become infected with the virus is still the most important thing for both mother and child. MTCT can, to some extent, be prevented by the administration of drugs. The Netherlands is supporting initiatives to improve access to these drugs while at the same time placing a strong emphasis on research into their long-term effects, such as the development of resistance.

140. Transmission of HIV via breast milk is possible, but greater clarity is still required regarding factors such as the role of exclusive breastfeeding, the timing of transmission via breast milk, and the advantages and risks of alternative types of baby food, especially in developing countries. Much more research is needed on the medical, ethical and nutritional aspects, and certainly on the long-term effects. The Netherlands is pressing strongly for such research to be conducted and is making financial resources available for it, for example via WHO and UNICEF.

#### *Young mothers and family planning*

141. During the 1990s international policies on maternal health and family planning underwent a radical change. The World Conference on Population and Development, held in Cairo in 1994, saw the introduction and acceptance of the concept of “reproductive health”, meaning the universal right to a healthy reproductive life, including the right to decide on the number and spacing of children. This covers both maternal health and family planning. In 1997 the Dutch House of Representatives (the lower house of Parliament) decided to devote 4 per cent of the annual Dutch official development assistance (ODA) budget to reproductive health care. This target was achieved in 1997, 1998 and 1999, and the figure for 2000 was in fact almost 6 per cent. This aid is channelled via international organizations and spent on bilateral cooperation activities. Priorities are: the promotion of safe motherhood; action to make good family planning methods available and accessible; prevention and treatment of sexually transmitted diseases; treatment of the consequences of unsafe abortions; the promotion, where possible, of proper facilities for safe abortions; and the promotion of reproductive health services for refugees.

#### *Drinking water and sanitation*

142. Efforts made by the Netherlands in the field of drinking water and sanitation focus primarily on sanitation in schools. Support is being given for a worldwide UNICEF programme which improves not only the facilities but also health education with regard to hygiene and staff motivation in this respect. A lesson learned from this is that children are more open to new ideas than adults and that they can influence and encourage their families and the whole community to keep their surroundings clean and to practise routine hygiene. Use is being made of this insight in the implementation of the programme.

### C. Social security and youth care (arts. 26 and 18 (2))

#### Reservation to the Convention

143. The Netherlands has adopted the provisions of article 26 of the Convention subject to the reservation that they do not confer an independent right to social security on children themselves. In recommendation 7, the Committee requested the Government of the Netherlands to reconsider this reservation. In response, the Government has carefully reviewed the question. However, since no significant changes have occurred in the Dutch social security system in the intervening years, it has come to the conclusion that there is no reason to modify its attitude. This means that the Netherlands still feels obliged to maintain the reservation made at the time of ratification.

#### Changes in social security

144. The following comments should be made in relation to the conferral of social security rights on children under Dutch law. The General Disablement Pensions Act ceased to apply on 31 December 1997. Because of the impact of this on people like the self-employed, young work-disabled people and students, who are not insured under the Disablement Benefits Act (*Wet op de Arbeidsongeschiktheidsverzekering*), two other schemes have been brought into force to protect these groups. These are regulated by the Disablement Benefits (Self-Employed Persons) Act (*Wet Arbeidsongeschiktheidsverzekering Zelfstandigen*) and the Disablement Assistance (Young Persons) Act (*Wet arbeidsongeschiktheidsvoorziening jonggehandicapten*). Both these Acts came into force on 1 January 1998.

145. Like the General Invalidity Benefits Act, the Invalidity Insurance (Self-Employed Persons) Act includes obligatory insurance against incapacity for work. It provides a right to disability benefit for those who derive an income from work even though they are not in employment. The level of benefit is equivalent to 70 per cent of the minimum wage. The brochure entitled "A short survey of social security in the Netherlands" provides further details.

146. To provide a right to benefit for work-disabled young people and students, the Invalidity Insurance (Young Disabled Persons) Act scheme was introduced on 1 January 1998. Since that date, disabled youngsters and students aged 17 and over have been able to claim benefit. The scheme is intended for young people who have become work-disabled and have no right to benefit under the Invalidity Insurance Act because they have never worked. Once again the brochure entitled "*Stand van Zaken van de sociale zekerheid*" provides further details.

147. On 1 January 1997, the new scheme to give an extra financial allowance to parents looking after disabled children in the home (TOG scheme) came into operation (see part VI.A).

#### Youth care

148. Most children and young people in the Netherlands grow up normally. An estimated minority of 15 to 20 per cent experience developmental or behaviour problems. Youth care services exist to serve this minority.

149. Youth care is part of the general youth policy field, which attends to all aspects of the development of children and young people and their integration into society by fostering their abilities and preventing early school leaving or marginalization. The policy is aimed at encouraging independence and minimizing reliance on care services. The key feature of the youth policy is confidence in the personal strength and abilities of children and young people. General youth policy is the responsibility of the municipalities. Youth care exists to deal with those problems which the municipalities cannot resolve and is the responsibility of the provinces.

150. Since a quarter of all youth care clients are from ethnic minorities, interculturalization of the service is a policy aim. Efforts are being made to recruit ethnic minority staff, and in 2001 a nationwide programme was launched to monitor the proportion of such staff in youth care institutions.

151. The Coalition Agreement of 1998 stated that a new Youth Care Act (*Wet op de Jeugdzorg*) would be introduced, containing clear arrangements for control and funding and providing a statutory basis for the planned improvements (policy information, programming of care, quality assurance policies, regional youth care offices/single clear point of access). Over the past few years, many such improvements have indeed been achieved and the exercise has culminated in the drafting of the Youth Care Bill itself.

152. The Coalition Agreement of 1998 also provided that the various tiers of Government (central, provincial and municipal) were to adopt a joint approach to social problems relating to youth care in order to tackle them more effectively. The three tiers subsequently developed a joint vision which has led to the adoption of the following criteria for youth policy:

(a) Policymaking is to take place in consultation with young people (and those responsible for their upbringing) rather than over their heads;

(b) Youth policy is to be brought into balance not only by avoiding focusing exclusively on the problems faced, but also by investing in strengthening general youth provisions;

(c) The authorities are not to wait for problems to develop, but are to react to situations in which young people are at a particular risk;

(d) The authorities are to cooperate in ensuring that the institutions offer a coherent set of services providing an adequate and recognizable response to demand from young people and their parents;

(e) Projects to strengthen structural provision are to be set up following joint consultation between the authorities.

This is a response to Recommendation 10 of the Committee, which calls for more coordinated planning by central, provincial and municipal government.

153. The provisions of the Coalition Agreement have been integrated into the Youth Care Act Policy Framework, issued in June 2000, which formulated the principles on which the new system was to be based and these have led in turn to the definition of the following aims:

(a) To guarantee the availability of an adequate system of youth care with easy one-stop access in the form of regional youth care offices which consult with the client to reach an independent and objective judgement on his or her individual needs and how they can be met, and then ensure that the client can obtain an appropriate integrated package of youth care;

(b) To improve general provision.

154. In the new situation, the youth care system embraces the care of slightly mentally disabled children with developmental and behavioural problems, mental health services for young people, youth services, child protection, the youth probation and rehabilitation service and youth custodial institutions (insofar as measures under civil law are concerned). Previously these were all under separate control and had their own rules, points of access and range of services. In the new system, there is a single point of access to youth care (the regional youth care office). This consults with the client to identify his or her needs and provides an independent referral to the appropriate services. This statement of needs confers a right of access to the types of care specified in it.

155. The Youth Care Bill explicitly assigns this task to the regional youth care office and introduces instruments for achieving the necessary cooperation and coordination. The aim is to ensure that problems are picked up at an early stage and that the regional youth care offices help general youth services, wherever possible, to provide direct support and assistance for young people within their own immediate community. They are intended to provide easy access, deploy expertise where needed within general youth services and be able to provide rapid on-the-spot assistance for young people in order to avoid unnecessary referrals. These duties are specified in the Bill (see also part III.B on youth care).

156. At the request of the State Secretary for Health, Welfare and Sport, a survey was conducted in which 360 young people were interviewed about the new legislation by other young people. Some of the interviewees were involved in youth care while others were not. The result was a number of proposals for improvements to legislation, for example to improve access to youth care for ethnic minorities. These proposals were presented in a report to the State Secretary in September 2001.

157. There follows a brief explanation of the various forms of provision making up youth care.

#### *Youth care organizations*

158. The Netherlands has various youth welfare organizations. Apart from those concerned with prevention, there are also organizations providing youth services (where help has been

sought voluntarily) and youth protection and custody institutions (following a judgement by a children's judge). Youth services and youth protection and care are directed at specific groups of children and young people, in particular at those groups in need of special care and attention in relation to their upbringing and development. A third wing of youth care is the mental health services for young people, which are directed at the provision of psychiatric treatment and care.

#### *Non-residential institutions*

159. *Boddaert Day Centres*: Boddaert Centres (named after the founder) operate outside school hours and offer assistance to children (and their parents) who are experiencing difficulties in their lives as a result of emotional or social problems. Most Boddaert Centres serve children of primary-school age.

*Medical Day Centres*: these centres provide care for children whose development has been interrupted or is at risk as a result of a combination of physical, emotional and social factors. They offer multidisciplinary treatment and care.

#### *Residential care*

160. *Assessment centres*: these institutions are designed to enable children to be observed over a period of time to assess what kind(s) of care are most appropriate to meet their individual needs.

*Residential youth care centres*: these care for and help children with physical, mental, social or educational problems or disturbances which are adversely affecting their development. Children are usually separated into different age groups. A wide variety of facilities and methods are available.

*Paedological institutes*: these are academic institutes providing special education and therapy for children whose physical or mental health has been impaired or is at serious risk of impairment. They provide round-the-clock facilities for medical examinations and treatment.

*Residential special intensive therapy units*: homes of this kind provide round-the-clock care and treatment for children with extremely severe behavioural difficulties, often related to psychological or neurological disorders.

*Crisis centres*: these provide temporary accommodation for children in crisis situations pending a decision on the most appropriate form of care.

*Family care units*: these are homes which attempt to create a family-type setting and atmosphere. This is the main aim of the care provided.

#### *Foster care*

161. Foster care agencies can place children in foster families and provide support for foster families, foster children and their natural parents in relation to the care and upbringing of the children concerned. They maintain a network of foster parents to provide temporary or

permanent care for children who are for any reason unable to live with their natural parents (see also part V.C on separation and divorce). Foster care agencies are responsible for the provision of direct support for foster families. There are also special agencies dealing with the provision of foster care for children with severe behavioural disorders. They provide very close support and counselling by specialist staff.

#### **D. Childcare services (art. 18, para. 3)**

##### **Legislation**

162. The Netherlands is currently creating a range of statutory and other provisions designed to make it easier for parents to combine paid work and childcare. This policy is certainly relevant to families with children because it increases the opportunities for combining employment with family responsibilities. As part of this exercise, the Government is striving to increase female participation in the labour market and male participation in unpaid care activities. Important measures in this respect include the passing of the Working Hours (Adjustment) Act (*Wet aanpassing arbeidsduur or WAA*), the preparation of legislation to combine, expand and improve leave arrangements, and moves to increase the availability of organized childcare.

163. The Working Hours (Adjustment) Act entered into force on 1 July 2000. It gives both public- and private-sector employees a statutory right to adjust their working hours, subject to certain specified conditions. "Adjustment of working hours" can mean either increasing or reducing the number of hours worked, and family responsibilities are among the possible reasons for wishing to do this. The gist of the Act is that employers are expected to grant their employees' requests for adjustment of working hours, unless there are compelling reasons, dictated by the interests of the organization, which militate against doing so. Although the Act does not relate exclusively to employees with family responsibilities, it is clearly relevant to their interests.

164. A second piece of legislation on work and care is currently undergoing parliamentary scrutiny. This embraces both a range of existing leave arrangements (maternity leave, emergency leave and parental leave) and several new rights (up to 10 days of paid leave to care for a sick family member, 2 days of paid leave on the birth of a baby, a right to 3 weeks' leave for both parents and a special allowance in the case of adoption, and flexible parental leave that can be taken in stages). A particularly important feature is the proposal for a right to up to 10 days of paid leave when any member of the family household becomes sick and has nobody else to care for them.

165. A third approach concerns a substantial increase in the number of organized childcare places. New legislation is being drafted on this too. To be known as the Basic Childcare Provision Act (*Wet basisvoorziening kinderopvang or WBK*), this will govern a number of



different areas: the structure of organized childcare provision; the distribution of responsibilities between the Government, the social partners (i.e. employers and workers) and parents; funding (including parental contributions); and the quality and supervision of childcare services. The Bill is due to go before the House of Representatives in autumn 2001 and is expected to enter into force in 2003.

166. Another change worth mentioning is an increased right to parental leave in certain circumstances (such as multiple births); this came into effect on 1 February 2001. Finally, a change in fiscal legislation, which came into effect on 1 January 2001, provides tax relief for employers in order to encourage them to include paid (or partially paid) parental leave in collective labour agreements.

## **Childcare**

### *Number of centres and places*

167. As at the end of 1999, the Netherlands had a total of 3,255 childcare centres (day-care centres, centres for out-of-school care and childminding agencies). There was a period of relative stagnation between 1993 and 1996, but the rate of increase has now accelerated again. The growing number of centres has naturally led to an increase in capacity. As at the end of 1999 there was room for a total of 116,007 children. Table 1 below (national statistics on organized childcare in 1989-1999) shows capacity in terms of places: the number of day-care places for children under age 4 (averaging 2,600 hours) plus the number of out-of-school places (averaging 1,300 hours); childminding places have been incorporated in these two categories, as appropriate.

168. Since 1999, the Temporary out-of-school Care Incentive Scheme has been replaced by the new Childcare and out-of-school Care (Expansion) Scheme, covering both childcare for the under-4s and out-of-school care. The effect of the former scheme was clearly reflected in the figures for 1998, when there was a 41 per cent growth in places for out-of-school care. By contrast, in 1999 the number of places for primary-school children rose by a mere 14 per cent.

169. In 1999 (possibly under the influence of the new central government policy), there was a similar surge in capacity for the under-4s (up 11 per cent). In 1998 growth in this sector (7 per cent) had been much less than in out-of-school care. The increase has occurred in almost all types of care, whether paid for by employers, parents or the public purse (i.e. the Ministry of Social Affairs and Employment, which funds places for children of single parents on minimum incomes). The increase in the number of subsidized places has not kept pace.

*Capacity per 100 children*

170. For every 100 children under the age of 4, there are 9.98 places, each averaging 2,600 hours (1998: 9.19).

For every 100 children aged 4-7, there are 3.39 places, each averaging 1,300 hours (1998: 3.15).

For every 100 children aged 9-12, there are now 1.06 places, each averaging 1,300 hours.

For every 100 children aged 4-12, there are 2.09 places (1998: 1.86).

*Occupancy rate, waiting lists and take-up*

171. The occupancy rate for places in childcare facilities for under-4s and out-of-school care (including places with childminders) is currently 87 per cent (1998: 87 per cent; 1997: 88 per cent; 1996; and 1995: 83 per cent). The total occupancy rate has remained unchanged. In 1999, 101,000 places were occupied out of a total of 116,000, 13 per cent up on 1998.

*Progress with expansion*

172. Under the Childcare and out-of-school Care (Expansion) Scheme, municipalities must provide an extra 72,000 places by the end of 2002, bringing the total number of places to approximately 160,000. At the end of 1999, 30 per cent of this increase had been achieved. Few municipalities (4 per cent) have already achieved the intended expansion. Around 40 per cent of the municipalities are taking action to do so. Most of those still without policies in place are municipalities with populations of less than 50,000.

173. The scheme assumes that 40 per cent of the intended future capacity will be for children under age 4 and 60 per cent for those of primary-school age, and that the proportions of subsidized places and those funded by employers will be 45 per cent and 55 per cent, respectively. Municipalities expect that approximately 44 per cent of the extra places will be for under-4s. Around 68 per cent of the extra places are likely to be funded by employers.

174. The central Government has asked the municipalities to use the private sector to provide extra places. At first sight, municipalities do not seem to be involving new agencies on any major scale. However, more detailed analysis shows that it is mostly small municipalities with few facilities that are achieving the increase in capacity by way of the "tried and tested" childcare centres. Half of all centres in the Netherlands are located in municipalities which are using public tendering or some other method to involve the private sector in the expansion of capacity. Table 1 below provides figures for 1989 (the first year of operation of the initial incentive scheme), 1993 (the year in which that scheme ended) and 1996-2000 to show the trend over recent years.

**Table 1**  
**National childcare statistics, 1989-2000**

		1989	1993	1996	1997	1998	1999	2000
Centres	Age 0-3	719	1 589	1 651	1 874	1 922	2 073	2 216
	Age 4-12	208	644	743	837	1 042	1 182	1 371
	Total	927	2 233	2 394	2 711	2 964	3 255	3 587
Capacity	Age 0-3	17 624	56 806	62 079	66 085	70 998	78 936	84 445
	Age 4-12	4 883	18 796	22 868	23 139	32 513	37 072	43 507
	Total	22 507	75 603	84 947	89 224	103 511	116 007	127 953
Paid staff	Total	4 546	15 433	20 024	25 844	31 567	33 369	37 577
Fte's (38 hours)	Total	3 484	10 983	13 581	14 732	16 970	18 963	20 492
Waiting list (number of places)	Age 0-3	23 232	33 518	23 855	16 948	17 310	22 736	30 722
	Age 4-12	4 133	8 167	7 003	4 809	9 524	8 634	10 372
	Total	27 365	41 685	30 859	21 757	26 834	31 370	41 094
Children in childcare	Age 0-3	34 783	87 955	115 336	125 699	130 828	146 435	164 418
	Age 4-12	13 283	18 266	27 795	35 566	52 082	62 638	75 746
	Total	48 066	106 220	143 131	161 265	182 910	209 072	240 164
% take-up	Age 0-3	4.6%	11.2%	14.5%	16.2%	16.9%	18.5%	20.8%
	Age 4-12	0.7%	1.1%	1.6%	2.1%	3.0%	3.5%	4.3%
	Total	1.9%	4.4%	5.6%	6.4%	7.3%	8.2%	9.4%
Capacity per 100 children	Age 0-3	2.34	7.25	7.79	8.53	9.19	9.98	10.49
	Age 4-12	0.27	1.14	1.31	1.34	1.86	2.09	2.44
	Total	0.89	3.11	3.34	3.56	4.11	4.53	4.94
Occupancy rate	Age 0-3	81%	78%	84%	89%	89%	88%	90%
	Age 4-12	80%	74%	80%	86%	82%	85%	84%
	Total	81%	77%	83%	88%	87%	87%	88%
Publicly funded	Age 0-3			918	1 684	1 854	2 504	2 355
	Age 4-12			900	2 148	2 820	3 806	3 909
	Total			1 819	3 832	4 674	6 310	6 264
Funded by parents	Age 0-3	1 331	3 022	6 208	7 739	7 884	9 759	10 653
	Age 4-12	369	1 000	2 132	1 409	2 142	3 270	3 909
	Total	1 700	4 022	8 340	9 147	10 027	13 029	14 562
Funded by employers	Age 0-3	2 783	20 049	29 408	32 032	35 587	40 942	47 382
	Age 4-12	64	2 388	5 843	5 787	9 951	12 602	15 480

### E. Standard of living (art. 27, paras. 1, 2 and 3)

#### Introduction

175. Over recent years there have been no changes in the statutory child maintenance system or in the system regarding the level of benefit. As in the past, government policy is based on the belief that poverty is best remedied by employment.

#### General figures

176. The current population of the Netherlands is 16 million. There are 7 million households.

**Table 2**

**Composition of Dutch households in 2001**

Total number	7 million
Single persons	2.3 million
Couples without children	2.2 million
Two-parent families	2.1 million
Single-parent families	0.35 million (85% single mothers)
Households including children aged 0-17	4.5 million

*Source: CBS, Nationaal Actieplan ter bestrijding van armoede en sociale uitsluiting 2001, p. 2.*

177. The average household includes 2.3 people (4.5 in 1900). The Government's definition of the term "family" is any group consisting of one or more adults who are responsible for looking after and bringing up one or more children. According to this definition, almost all children in the Netherlands and 80 per cent of adults aged 30-55 currently live in families.

178. Table 3 below shows how the population of the Netherlands is divided by age group.

**Table 3**

**Population of the Netherlands, by age group (2000)**

	0-19	20-39	40-64	65-79	80 or older	Total population
Absolute	3 873 008	4 761 504	5 076 996	1 652 103	500 339	15 863 950
%	24.4	30.0	32.0	10.4	3.2	100

*Source: CBS, Nationaal Actieplan ter bestrijding van armoede en sociale uitsluiting 2001, p. 2.*

179. The table above shows the rise in the average age of the population over the last 50 years. In 1950, 7.7 per cent of the population was aged 65 or over; by 2000, the proportion had nearly doubled to 13.6 per cent. Over the same period, the proportion of people under the age of 20 declined from 37.3 to 24.4 per cent. The population of the Netherlands includes 1.5 million people from ethnic minorities (2000).

180. In 2000, the unemployment rate stood at less than 3 per cent: its lowest level since the late 1970s. The growth in jobs has pushed up the proportion of people in employment: from 54 per cent in 1990 to 67 per cent in 2000. (Figures for the number of people in employment are based on national statistics which ignore those working for less than 12 hours a week.)

**Table 4**  
**Trend in the number of benefit claimants, 1995-2000**

	1995	1996	1997	1998	1999	2000
Social assistance (pers. x 1 000)	492	484	463	424	381	351
Unemployment (ben. yrs x 1 000)	341	324	288	237	193	162
Invalidity benefit (pers. x 1 000)	933	941	955	996	1 021	1 062

*Source: SZW, Nationaal Actieplan ter bestrijding van armoede en sociale uitsluiting 2001, p. 4.*

181. The total number of people looking for work in 1999 was 806,000, while the number of job vacancies was high (at almost 170,000). Simply filling these vacancies could increase the rate of employment by around 3 per cent.

### **Income guarantees and trends in purchasing power in the Netherlands**

182. The Netherlands has a fully comprehensive system of social security benefits which guarantees a relatively comfortable minimum income for all. The guaranteed minimum income is derived from the statutory minimum wage, but the tax system creates a gap between the net minimum wage and the guaranteed minimum income which encourages those on benefits to seek paid work. The guaranteed minimum income is graded by type of household: 100 per cent for married couples (including cohabiting couples and those in registered partnerships), 90 per cent for single parents and 70 per cent for single people without dependent children.

183. So far, the present report has considered only the proportion of households living on guaranteed minimum incomes. Table 5 shows the proportion of individuals who have to live on this level of household income (for shorter or longer periods).

**Table 5**  
**Individuals in households in temporary or long-term receipt of minimum incomes, in percentages of the age group concerned**

	1995	1996	1997	1998	1999*
Total	8.5	8.4	8.3	8.0	8.0
- children < 18	11.2	11.0	10.8	10.2	10.1
- men 18+	6.3	6.3	6.2	6.0	6.0
- women 18+	9.2	9.0	8.9	8.7	8.8
Long-term	3.0	2.8	2.8	2.7	2.6
- children < 18	3.4	3.3	3.3	3.1	2.7
- men 18+	1.9	1.8	1.8	1.8	1.7
- women 18+	3.8	3.6	3.5	3.4	3.3

*Source:* CBS income statistics.

\* 1999 figures are provisional.

184. Children under the age of 18 run a risk of living in poverty which is 2 per cent above the average. However, this is gradually declining over the years, reflecting the decline in the proportion of single-parent families entirely dependent on benefits.

#### **Social assistance for young people**

185. In the Netherlands, young people under the age of 18 have no independent right to social assistance. Their parents have a statutory duty to support them. The National Assistance Act (*Algemene Bijstandswet*) provides for a standard level of benefit for families and single parents with children under the age of 18.

186. Young people aged between 18 and 21 do have an independent right to benefit if they are no longer living with their parents, but even so their parents are still in principle expected to pay for their upkeep. The Civil Code (*Burgerlijk Wetboek*) imposes a statutory duty on parents to maintain their children up to the age of 21. However, where it is impossible in practice to enforce this duty, the municipal executive has the power to make "crisis payments" to the young person concerned. Benefit is therefore only paid to young people under 21 if their living costs necessarily exceed the relevant standard level of benefit and they cannot obtain additional financial support from their parents, either because the parents cannot afford to pay or because the young person cannot reasonably be expected to enforce his or her statutory claim on them.

187. The national norm for single people without children is 50 per cent of the net minimum wage. The municipal executive has a duty to grant a supplementary allowance of 20 per cent of the net minimum wage if the single person concerned can show that he/she is unable to share the general basic costs of living with anyone else.

188. Article 37 of the Social Assistance Act gives the municipal executive the power to designate a lower supplementary allowance for single people aged 21 or 22. It can do so if it believes that, compared with the current level of the minimum wage, the total level of benefit, including the supplementary allowance, will be such as to discourage claimants from seeking work.

**Table 6**  
**Number of benefit recipients**

	Aged under 21			Aged 21-22		
	1998	1999	2000	1998	1999	2000
Total	10 400	9 000	8 160	10 900	9 300	8 190
including						
Single	8 300	6 700	5 760	7 600	6 000	4 810
Single with children	1 500	1 800	2 060	2 500	2 700	2 870
Married	400	300	220	800	600	480
Other/unknown	200	200	120	-	-	30

*Source:* Ministry of Social Affairs and Employment.

189. Table 6 shows that the number of young childless singles in receipt of benefits is declining rapidly, while the number of young lone parents on benefits is rising.

### **Employment of single parents**

190. At the end of 1998, there were 103,700 single parents on benefits and 31,300 of them had children under the age of 5 (respectively 26 per cent and 8 per cent of the total number of benefit claimants). In 1999, only 9 per cent of the latter group were in paid work. The Emancipation Yearbook (*Jaarboek Emancipatie*) for 1999 shows on page 136 that single-parent participation in the labour market is generally on the increase in the Netherlands (26 per cent in 1988 and 42 per cent in 1997). Although the same is true of single parents on benefits (participation up from 9 per cent in 1989 to 19 per cent in 1998), the rate at which single parents are leaving the benefit system is lower than that of other claimants.

191. The policy of the Government is to emphasize that participation in the labour market is an important way for single parents to improve their own standard of living and that of their children. One of the agreements made between the central Government and the Association of Netherlands Municipalities (VNG) as part of the "Agenda for the Future" project (25 September 2000) provides that "the Ministry of Social Affairs and Employment and the VNG will encourage municipalities to make a greater effort to activate single parents by promoting part-time work through the provision of financial incentives, childcare and training".

192. Another agreement between the central and local government that is relevant in this context is that municipalities will strive to offer appropriate work to clients with an individual exemption from one or more obligations to work (these include single parents with a child over the age of 5), or alternatively that they will take steps to eliminate the reason for the exemption. When making offers aimed at the reintegration of claimants into the workforce, the municipalities are to take account of factors such as the need of the claimant to combine work and care, the availability of childcare and the interests of the child.

### **Childcare and social assistance**

193. Since 1996, single parents on social assistance who undertake employment or training have been able to obtain grants for childcare for under-4s and out-of-school care from a special scheme catering for their needs, provided that they do not earn more than 130 per cent of the statutory minimum wage.

194. At the beginning of 2000, eligibility for this scheme was extended to include two new categories of single parents: teenage mothers and those taking part in social activation schemes. A total budget of NLG 131.1 million was available for the scheme in 2001.

195. The scheme is used mainly by single-parent benefit claimants engaged in part-time work or training and by single-parent ex-claimants who have entered some form of employment (subsidized or otherwise).

### **Crisis payment**

196. Parents in the Netherlands can apply for crisis payments to help meet costs associated with child-rearing if those costs are the result of exceptional circumstances, they themselves lack the income and/or assets to meet them and there is no other form of assistance available. The costs concerned may relate to education, social participation or medical treatment or care. Applications for crisis payments have to be made to the local municipal social services department and are assessed on an individual basis, with due regard to the applicant's own ability to pay.

197. On 1 July 1997, a new arrangement was introduced in the Netherlands to allow crisis payments to be made on a generic basis. This enables municipalities to specify particular groups of people who can automatically be granted crisis payments. The municipal social services department can then award crisis payments to parents on the basis that they are members of a particular category of individuals who are assumed to incur particular costs in relation to their children (for example, parents of children at secondary school).

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance (art. 28)**

#### **Primary and secondary education**

198. Under the Compulsory Education Act, children must attend school full-time between their fifth and sixteenth birthdays (although they may attend as soon as they reach the age of 4, and 97 per cent in fact do so). They must continue to attend part time until their seventeenth



birthday. Asylum-seekers in the same age category and the children of asylum-seekers must also attend school. They are put in bridging classes to prepare them for regular education. The function of special education is dealt with in part VI.A.

199. After completing primary education, pupils go on to secondary education. This is divided into the following categories: pre-university education (VWO), senior general secondary education (HAVO) and pre-vocational secondary education (VMBO). Every type of secondary education begins with a three-year period of basic secondary education, in which pupils are taught a broad curriculum. In theory, children can go to whatever type of secondary school they like, although parents usually select the type recommended by their child's primary school. Ultimately it is up to secondary schools themselves to decide who to admit. VMBO includes a separate learning pathway for pupils who cannot cope with the regular curriculum.

200. Primary education is free, as is secondary education up to and including the school year in which pupils reach the age of 16. From then on, parents pay school fees. However, this does not prevent children from poorer homes from attending school as they qualify for a study costs allowance. Schools can ask parents to contribute towards the cost of certain activities, but this is entirely voluntary.

### **Higher education**

201. Institutions of higher education can lay down admission criteria. Registration and the allocation of places is carried out centrally. Universities and colleges require students to pay tuition fees. However, a system of student grants and loans ensures that no one is prevented from studying simply because they cannot afford to.

### **The provision of information on education**

#### *Primary education*

202. Primary school attainment targets stipulate that pupils be provided with information on educational and vocational choice. When a child has completed primary education, the school will advise its parents as to the most suitable type of secondary education.

#### *Secondary education*

203. Most secondary schools have open days so that the parents of potential pupils 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, sometimes supplemented by introductory activities. After the second year of basic secondary education - a three-year programme in which all pupils follow a basic core curriculum - secondary schools must advise pupils on the choices they have to make regarding their subsequent school career. The idea is not to force pupils to choose early on, but to ensure that they are prepared when the time comes. Informing pupils as to how their choice of subjects will affect their study and career prospects is an integral part of a school's tasks.

204. Various other bodies also advise pupils and teachers on subject, school and career choice. Education and Careers Guidance Agencies (AOBs) provide free information on vocational tests. Most schools have ties with an AOB; the costs are met from a government grant based on pupil numbers. The funding of such guidance is regulated by the Secondary Education Act.

#### *Vocational education*

205. Regional Training Centres (ROCs) have a duty to provide pupils and their parents with educational and careers guidance, and their performance in this respect is assessed.

#### **Early childhood education**

206. The pre-school years are crucial to a child's development. Children must be given a good start if they are to develop properly, do well at school and participate fully in society. The Government accords a high priority to targeting and tackling disadvantage at an early age, and has in recent years earmarked a sizeable budget (around €100 million in 2002). At present, about 50 per cent of the target group is being reached. The aim is ultimately to reach the entire target group and to give all the children concerned as good a start as possible, thus minimizing their linguistic and developmental disadvantage by the time they start school. The group comprises some 200,000 children between the ages of 2 and 5, including children from ethnic minorities and Dutch children whose development is likely to suffer because their parents have had little schooling. In order to reach all these children it is necessary to identify disadvantage (or potential disadvantage) at a very early age and to encourage parents to send their children to a playgroup or some other form of childcare. Since 2001 the Government has earmarked extra funds for this purpose (€15.8 million a year). Primary schools, playgroups and baby and toddler clinics need to work together to achieve these aims.

#### **Preventing dropout**

207. High priority is assigned to supporting youngsters who experience problems at school. They are encouraged in various ways at least to acquire an initial qualification for the labour market.

208. The Compulsory Education Act explicitly seeks to prevent truancy and dropout. A 1994 amendment gives schools and municipalities more responsibility and scope for combating dropout and also makes pupils themselves directly liable for non-attendance. School attendance officers monitor attendance. As of the age of 12, pupils can be held legally responsible for failing to comply with the provisions on school attendance. Since the establishment of regional truancy reporting centres (RMCs) it has been possible to monitor and tackle the issue at the regional level. The idea is to set up a watertight truancy registration system and thus a joined-up approach that will ultimately reduce truancy.

209. In 1995 initiatives to provide integrated services for pupils and their parents began in Rotterdam and Groningen. The main aim of these "community schools" and similar local initiatives is to increase children's and young people's chances. They form part of a network of education, childcare and welfare organizations. By 2000, 179 of the 504 Dutch municipalities

had community schools, and 175 municipalities were planning to set up integrated centres of this kind. In the case of primary schools links have primarily been made with crèches, out-of-school care centres and welfare agencies. Various measures have been taken to tackle the problem of dropout among specific target groups and increase their chances of success.

210. Since 1998 educational priority policy has been devolved to the municipalities. They have been given the resources and means to enable them to pursue a policy on educational disadvantage. The aim is to develop a local, coherent approach to disadvantaged pupils, in conjunction with crèches, schools, welfare agencies, the police and sports clubs. Every four years, the central Government lays down priorities in a national policy framework, which the municipalities must in any event address. The latest national policy framework covers the period 2002-2006. Priorities include early-childhood education, support during a child's school career, combating early school leaving and language development. The approach will moreover increasingly be school-specific, with municipalities developing an educational opportunities policy to tackle concrete problems at individual schools. The broad programme of action includes measures at all schools with a high proportion of pupils from disadvantaged backgrounds. Parliament has approved the establishment of a centre which parents can contact for information or advice on primary and secondary education. One of the aims of the centre, which will be linked to a web site, is to increase parental involvement. The four national parents' organizations will take the lead. Forum, an institute for multicultural development, has been asked by the Ministry of Education, the Ministry of the Interior and the Ministry of Welfare and Health to devise and implement a campaign on early-childhood education. The aim is to impress on certain target groups the importance of early education for a child's development. On the whole these are ethnic minorities and certain sectors of the Dutch population which are hard to reach. The information will be provided via the municipalities; a direct approach is central to the campaign.

211. Research has shown that there is an adequate national network of supra-school services for potential dropouts. These tend to be pupils with behavioural problems who are taught outside school for a limited period and then return to school again. Special efforts are being made to improve cooperation between schools and youth care services. To this end, a centre has been set up to promote the development of consultative teams of care experts who advise schools on problem pupils. It is also active in developing and disseminating best practices in the field of cooperation between schools and youth care centres.

### **School discipline and the Convention on the Rights of the Child**

212. Although under article 23 of the Dutch Constitution the running of schools is primarily left to individual school authorities, in practice this does not conflict with the requirements of the Convention on the Rights of the Child as regards the way in which discipline may be maintained at school. Adequate safeguards exist in the shape of the supervision provided by the Education Inspectorate, the powers invested in parents in the participation council and - in secondary education - the pupils' charter. At many schools pupils can talk to confidential advisors if they are experiencing problems at home or at school. The obligations of pupils and parents vis-à-vis schools and vice versa are clearly set out, for example in agreements about discipline, a school handbook (listing parents' and pupils' rights and obligations) and a complaints procedure providing for an independent complaints committee.

213. Since 1995 the “Safe School” campaign has effectively tackled problems of violence and lack of safety in schools. In 2000 a follow-up survey led to the establishment of a scheme aimed at improving safety in schools, involving a confidential helpline for pupils and others. Since mid-1999 teachers who have reason to suspect that a sexual offence has been committed are under an obligation to report this to a confidential inspector and to the police.

### **International cooperation in the field of education**

214. The Netherlands is a firm advocate of the internationalization of education, both with a view to equipping pupils for European integration and increasing globalization, and to improving the quality of education through international comparison and the acquisition of knowledge. Both pupils and teachers in primary, secondary and vocational education are increasingly reaping the benefits of exchanges and other types of international contact. Two policy documents set out specific policy in this field. The policy of internationalization also extends to teaching content, with a strong focus on the intercultural component.

215. The European Platform for Dutch Education is currently carrying out a project commissioned by the Ministry of Education, Culture and Science aimed at encouraging children from ethnic minorities, especially girls, to participate in exchange programmes. The European Union (EU) programmes Socrates and Leonardo provide a multilateral framework for internationalization. The Netherlands moreover supports moves within EU to help European education systems learn from one another via a process of “open coordination”. Such moves are a logical consequence of agreements made at the Lisbon European Council (March 2000) which link the goal of a knowledge society to efforts to achieve social cohesion. In this context, considerable use is made of the Organization for Economic Cooperation and Development (OECD) expertise. The introduction of information and computer technology in Dutch education - a promising move being the establishment of a “knowledge network” (*Kennisnet*) for education - is being implemented through this and similar international channels in a broad international context.

216. With regard to human rights education, tolerance and democratic citizenship, UNESCO and the Council of Europe provide frameworks for the evaluation of relevant trends in the Netherlands. Finally, the development of early-childhood education in the Netherlands owes much to best practices in other countries, often made available to Dutch experts through OECD and UNESCO.

### **Cooperation with developing countries in the field of education**

217. Since 1992 basic education has been an area of special focus within Dutch development efforts, as one of the components of a policy geared to poverty alleviation and development. This focus on education for all has become more marked with the passage of time. Parliament requested the Government to give it yet higher priority following an international education conference in Dakar in 2000. The effect of this request has been a net increase in expenditure and active participation in the education dialogue at national and international levels. In recent years, direct expenditure on basic education in the 14 target countries that chose education as an aid sector rose from 1.9 per cent in 1998 and 1999 to an estimated 3.5 per cent in 2001. In cooperation with the World Bank, the Netherlands is moreover helping to fund an international fund for education for all (still at a preparatory phase).

218. Basic education, as defined in Dutch development terms, encompasses more than just primary education. It is geared to giving people the chance to acquire the basic knowledge, values and skills necessary for their personal and social development and their participation in society. In other words, it is more far-reaching than formal primary education for all and includes non-formal education (e.g. literacy programmes, adult education and education for school leavers). Attention is paid both to quantity (access to education) and quality (relevant, high-quality education). A premise is the universal right to the form of education that ties in with the basic learning needs of each individual, whatever their age. This directly relates to the right to education numbered among the rights of the child. The Netherlands is working with national Governments in 14 countries to design education programmes that will achieve the internationally agreed aims of equal participation of boys and girls in primary and secondary education by 2005 and basic education for all by 2015. In this context, Dutch policy also seeks to tackle the existing gender inequality and to promote equal opportunities for all.

219. Within basic education policy specific attention is paid to early-childhood development, the aim being to achieve an integrated and holistic approach. One of the means by which this is achieved is a partnership programme with UNICEF. As chair of the Working Group on Early Childhood Development, set up by the Association for the Development of Education in Africa, the Netherlands strives to promote a supra-sectoral approach to early-childhood development. The main focus is on its implications for the education sector.

## **B. Aims of education (art. 29)**

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

220. Education legislation ensures that pupils can follow an uninterrupted process of development. This process should be linked to the child's individual development. Thus, education targets children's emotional as well as their intellectual growth and should equip them not only with knowledge but also with social, cultural and physical skills. Another basic assumption of Dutch education is that children grow up in a multicultural society. Relevant principles are set out in the attainment targets laid down for primary school and basic secondary education.

221. The didactic aspects are explicitly dealt with in the school work plan and the school prospectus as well as the pupils' charter which secondary schools must produce every two years. Respect for the point of view and culture of others are the most recurrent themes in these documents.

222. As far as the cultural identity, language and values of children from ethnic minorities are concerned, there are specific policies aimed at these target groups. Pupils with at least one foreign parent are often taught their own language and culture, usually by teachers from their country of origin. These lessons are given outside regular school hours. In secondary education, teaching of Arabic and Turkish, two of the most common immigrant languages, has expanded since the 1990s. Schools can now offer these languages as exam subjects if they wish.

223. One of the basic premises of Dutch education - indeed, of Dutch society as a whole - is that people should not be discriminated against because of their gender. Dutch education policy is explicitly geared to offering equal opportunities to boys and girls. Special attention is paid to

teaching materials and textbooks that combat sex stereotyping. The attainment targets devote specific attention to equal opportunities for girls. One of the aims of the attainment targets for history and social studies is to enable pupils to form an independent and balanced judgement, based on their own values and those of others. A comparable role is assigned to geography teaching, in which considerable scope is devoted to intercultural aspects. In recent years, intercultural education has expanded to become one of the primary perspectives of Dutch education, partly thanks to a project group set up by the Ministry of Education, Culture and Science.

224. Primary schools are required to teach children about different religions and ethics. In the context of intercultural education many schools also cover subjects such as peace and international cooperation. Science and environmental education - recently very much promoted by the Government - and biology incorporate teaching respect for the environment and a responsible attitude to sexuality and health.

### **Human rights education**

225. The attainment targets for primary education may be either specific to an area of learning or more general. The attainment target for the area of learning “people and the world they live in” specifies the requirements human rights education must meet. The subject of human rights is not taught separately, but as an integral part of other subjects. The aim is to nurture children’s critical capacities, so that respectful and socially responsible behaviour can be expected of them. Primary schools are required to teach children about discrimination, tolerance and emancipation. Children must be able to identify similarities and differences between a number of ideological and religious schools of thought that play an important role in the Dutch multicultural society.

226. “Social behaviour” is a general attainment target which teaches primary school pupils to treat others with respect, to respect different convictions and cultures and to support people with different views.

227. In accordance with article 23 of the Constitution, the way a school is run is primarily the responsibility of its competent authority. Each school will therefore teach the above attainment targets differently. There are various organizations in the Netherlands from which schools can get help. For instance, Amnesty International has produced learning packages on the subject of human rights, and the National 4 and 5 May Committee organizes activities to involve children in commemorating the Second World War and the liberation.

### **Vocational education**

228. The Government draws up the attainment targets for vocational education per course or subject, on the basis of proposals put forward by sectoral organizations and employers. The attainment targets meet three criteria: they provide education of a general nature, they provide vocational training and they maintain a link with other forms of education. This ensures that vocational education complies with the requirements of article 29 of the Convention.

## **Freedom of education**

229. Article 23 of the Constitution ensures that the provisions of article 29, paragraph 2, of the Convention are met, since the freedom of education guaranteed by this article makes it possible to set up schools and provide education as long as certain conditions for funding are met, including a minimum number of pupils, competent teaching staff and a proper qualification structure. Religious or ideological groups can set up their own schools. If they meet all the conditions these private schools are funded in the same way as public-authority schools. The majority of schools in the Netherlands (some 65 per cent) are private. Comparable freedoms exist regarding the provision of religious education.

### **C. Leisure, recreation and cultural activities (art. 31)**

#### **School hours and leisure**

230. The Ministry of Education, Culture and Science determines the number of hours children spend at school each year, as well as the length of the school holidays. The summer holidays are six weeks in the case of primary and special schools, and seven weeks in the case of secondary schools. On average, primary schoolchildren are taught for 22 periods a week in the first two years at school and 25 periods in the remaining six years. They are never taught for more than 5.5 hours a day. The school authorities must provide facilities to enable primary schoolchildren to stay at school during the lunch break. Secondary school pupils are taught for approximately 28 periods a week, 40 weeks a year. On average, their homework amounts to 7-10 hours a week. In the second stage of senior general secondary education (HAVO) and pre-university education (VWO) the average study load is 40 hours a week, including sporting and cultural activities that are part of the curriculum.

231. One major change in the way young people spend their leisure time is the shift from collective activities in the public domain (streets and sports centres) to individual activities in the home. They also have less leisure time than they did 10 years ago - on average 40 hours a week in the case of school children. Less and less of this time is spent with the family. As a result, young people are doing less voluntary work and participating less in social and cultural activities organized by youth services.

232. A survey of how secondary school pupils spend their time is carried out once every two to three years. The 1999 survey showed a sharp rise in participation in cultural activities (visits to museums, cinemas and theatres) in the upper forms of secondary school. This is undoubtedly due in part to the free issue of the Cultural Youth Passport (a pass entitling the holder to see films, plays, concerts, etc. at reduced rates) to all schoolchildren in this age group and the introduction of arts vouchers as part of education in the arts. The Social and Cultural Planning Office plans to publish an extensive report on how young people spend their time before the end of 2002.

## **Culture**

233. Introducing children and young people to culture and art is a priority. To this end, extra funds have been made available for the following activities:

- Art institutions and cultural activities specifically for the young (theatres, films, literature, etc.);
- Encouraging young people to take an active part in the arts through amateur clubs and other means. Under the *Kunstbende* initiative, national youth competitions have been set up in all branches of the arts. Other stimuli include the *Grote Prijs der Nederlanden* (a pop award), youth orchestras and a theatre festival for schoolchildren;
- Performing arts bodies and museums are encouraged to develop activities for the young, in partnership with schools and libraries;
- Cultural education in primary and secondary schools is promoted by incorporating arts and culture in the curriculum and by strengthening ties between schools and cultural organizations. The first move in this direction came with the 1996 policy document on schools and culture, and progress is monitored on a yearly basis.

234. The above merely supplements existing initiatives. Some 80 schools offer an extended school day, in which the extra hours are chiefly devoted to arts education. Municipal authorities facilitate introduction to arts and culture outside school hours. Music schools and art centres (about 240 throughout the Netherlands) offer an accessible range of courses, and social services also organize cultural activities for youngsters.

## **Sport**

235. In the Netherlands, where water is everywhere, it is essential that children learn to swim. This year the Government, in partnership with the municipal authorities, has launched a campaign to teach all children in the Netherlands to swim. The year 2001 saw the completion of the Young People on the Move Project (*Jeugd in Beweging*). Its aim was to promote an active lifestyle in general and sport in particular. It was based on a partnership between schools, sports clubs and other civil society organizations. The Dutch Institute for Sport and Movement is now organizing follow-up activities fostering municipal coordination in such areas as partnerships between schools and sports clubs. The Ministry of Health, Welfare and Sport will provide municipalities with the necessary funds, rising to 30 million guilders in 2002. The municipalities can supplement this by using some of their educational disadvantage budget to promote participation in sports among disadvantaged pupils.



## VIII. SPECIAL PROTECTION MEASURES

### A. Children in emergency situations

#### 1. Refugee children (arts. 22 and 39)

##### **Unaccompanied minor asylum-seekers**

236. Unaccompanied minor asylum-seekers receive special care and attention. A staff member of the Dutch Refugee Council helps to prepare them for the interview in which they explain their reasons for seeking asylum to an official of the Immigration and Naturalization Service (IND) and may also attend the interview. IND officials are specially trained for these interviews, and take the minor's age and mental development into account. As from the end of 2001/early 2002, minors under 12 years of age will also be given an opportunity to be heard.

##### **Policy: greater emphasis on return**

237. A large number of unaccompanied minor asylum-seekers (AMAs) request asylum in the Netherlands. Their number increased from 2,660 in 1997 to 6,705 in 2000, representing 15 per cent of the total number of asylum-seekers. The current situation, in which there is a large influx of AMAs, few of whom return to their country of origin, and in which AMA facilities are being abused by asylum-seekers who have reached the age of majority, prompted the Government to draft two policy memoranda proposing new measures, which it sent to Parliament on 24 March 2000 and 1 May 2001 respectively. Both memoranda - mindful of the best interests of the child, which are in principle served by restoring its relationship with its parents, family and/or social environment - propose the following:

- Measures to step up the fight against people smuggling;
- Measures to curb the influx of AMAs;
- Measures to promote their return to the country of origin.

In this new policy, the possibility of return will be investigated far more vigorously than before, while naturally taking account of the minor's position and the situation in the country of origin. In contrast to the current emphasis on helping AMAs integrate into Dutch society, preparation for their return will in future be a fixed part of the help provided to minors who must return to their country of origin. Of course, minors who are expected to be allowed to remain in the Netherlands will, as before, be prepared for integration into Dutch society.

238. If there is no one to care for the minor in the country of origin, he or she may be eligible for a residence permit. Those concerned are accommodated at a special investigation and reception centre for minors, which employs staff to supervise and care for them. Each unaccompanied minor is first assigned a guardian. After a few months at such a centre, minors are transferred, depending on their age, to a host family, a communal living project, a small residential unit or an asylum-seekers centre if the guardian deems this appropriate. In all cases minors are sent to school and prepared for Dutch society.

## **2. Children in armed conflict (art. 38)**

239. The Convention lays down a minimum age of 15 for recruitment to or membership of the armed forces and for participation in armed conflicts. In the Netherlands, the minimum age for both membership of the armed forces and participation in armed conflicts is higher than 15. Since 1997 the Dutch armed forces have consisted wholly of persons joining of their own free will. Compulsory military service does not exist. The minimum age at which one can join the armed services is 17, and no military personnel under 18 years of age are deployed in peacekeeping or peace enforcement operations, or in other international operations in trouble spots.

240. As already noted in the Introduction, the Netherlands signed the Optional Protocol on the involvement of children in armed conflict in 2000 and has set in motion the procedure for its ratification.

### **B. Children in conflict with the law**

#### **1. Administration of juvenile justice (art. 40)**

##### **Reservations to the Convention**

241. The Netherlands has entered a reservation to article 40 of the Convention. After due reflection, the Government remains convinced that the courts must retain the freedom to settle cases involving minor offences without the accused having secured legal counsel. At issue here are offences such as rowdy behaviour and noise nuisance, cycling without a light, and so forth. To expedite proceedings it should not be necessary to wait until the accused has legal counsel. It should be added that the persons accused are always free to take along a lawyer of their own choosing, or to request one. In the latter case, the request will be considered in the context of the circumstances. In certain specific cases a lawyer may be assigned.

##### **Life imprisonment**

242. It is theoretically possible for a minor standing trial under adult criminal law to be sentenced to life imprisonment. In practice, however, this does not occur. If a minor commits an offence that is so serious as to justify the application of adult criminal law and the highest penalty for which that law provides - life imprisonment - the court will in general impose a hospital order including care. This order may be imposed in addition to a long but finite term of imprisonment, and is renewable at yearly or two-yearly intervals. Any minor who nonetheless received a life sentence would in principle be pardoned after 20 years.

##### **Juvenile justice/throughput times**

243. Throughput times in juvenile justice are a constant area of concern. In 2000, when indications suggested that these times had not been reduced, the Ministry of Justice conducted a "quick scan" of the time taken at each successive stage of the criminal justice system for juveniles, from the action taken by the police up to and including the imposition of a sanction. The findings confirmed the initial indications. As far as quantifiable variables are concerned, a significant proportion of the current throughput times fail to meet the standards required from the vantage point of child development, which calls for each such case to be dealt with and

concluded swiftly. There is too little harmonization between the methods employed by the various bodies involved. Parliament has since urged that the throughput times be substantially reduced.

244. The State Secretary for Justice has now prescribed a number of standard time limits, which she assumes will be met in at least 80 per cent of all juvenile cases by 2003. All the bodies involved in juvenile criminal justice have now set up a joint project to improve the logistical and administrative procedures between them, the aim being to meet the set norms by 2003. The basic point of departure is that each organization will be responsible for meeting the set deadlines.

### **“Stop” assignments**

245. Children under 12 years of age who commit minor offences such as vandalism, theft, illegally setting off fireworks and rowdy behaviour may be given a brief corrective assignment. Parental consent is required. The aim is to provide a voluntary aid, free of obligations, to help parents and carers correct their child's behaviour. A “Stop” assignment is not a statutory sanction; this would be impossible, since children under 12 years of age cannot be prosecuted. The point of the assignment is to make it clear to the child, in an appropriate manner, that criminal behaviour is unacceptable. The assignment may consist of an interview, writing an essay, answering the questions on a form, or apologizing to the injured party. The assignment may on no account involve any kind of work. If a child is considered eligible for a “Stop” assignment, the police will suggest it to the parents, making it clear that participation is voluntary. The proposal is also handed to the parents in writing, together with the conditions. Parents then decide whether or not to give their written consent to the child's participation. In principle, a child can be given a “Stop” assignment once only. It may however be given a second time at the specific request of the child's parents or carers, provided the public prosecutor agrees. “Stop” assignments were initiated on 1 May 1999 on a trial basis. An evaluation project set up to monitor the trial revealed that many parents found them a useful form of support. They can also play a part in the early identification of children whose behaviour threatens to become a problem. They were introduced nationwide on 1 August 2001. A study of repeat offending is to be launched as soon as possible.

## **2. Children who are deprived of their liberty (art. 37 (b)-(d))**

### **The obligation to provide information and to grant a hearing: juvenile detainees; Young Offenders' Institutions Framework Act**

246. The Young Offenders' Institutions Framework Act, which entered into force on 1 September 2001, prescribes rules for informing and granting a hearing to juvenile detainees. In addition to the general obligation to provide information about confinement in a young offenders' institution, the Act defines precisely those cases in which staff are required to grant the juvenile a hearing before making a decision restricting his/her rights. Where a hearing must be granted by law, the juvenile must also be given written notification (section 62 of the Young Offenders' Institutions Framework Act). No restrictions may be imposed other than those necessary for the purposes of the detention, to maintain order or security in the institution, for the juvenile's mental or physical development, or to implement the plan drawn up for the juvenile's detention or treatment.

### **Execution of sentences and non-punitive orders**

247. The execution of sentences and non-punitive orders, which must commence as soon as possible after their imposition, emphasizes a juvenile's development and is geared, as far as is possible, to preparing his return to society. The Act indicates that there are two ways to execute a sentence or non-punitive measure, namely by confinement to a young offenders' institution or, following on from this, in the final phase of the sentence or order - and this is new policy - by enrolment in an educational and training programme (STP). A juvenile who has been enrolled in a programme of this kind no longer lives at a young offenders' institution, but at home or in another youth services establishment. Preparing and enforcing participation in an STP is the joint responsibility of the governor of the institution (who retains final responsibility) and the juvenile probation and aftercare service (which provides guidance and supervision). A detention or treatment plan is drafted, in consultation with the minor where possible, that covers the entire duration of the minor's stay in the young offenders' institution, until the end of the sentence or non-punitive order. This includes the STP phase. If a juvenile is confined to a detention centre for more than three months, a detention plan will be drawn up (sections 20-21 of the Young Offenders' Institution Framework Act). If he/she is confined to an institution for treatment, a treatment plan will be drawn up, in consultation with the minor himself/herself where possible (sections 25-30, of the Young Offenders' Institution Framework Act).

### **Right of complaint**

248. The Young Offenders' Institution Framework Act distinguishes between different rights of complaint. First, the juvenile can ask the supervisory committee's duty member for the month to mediate in all kinds of matters affecting him personally. He can also lodge a complaint with the complaints committee against a decision made by or on behalf of the institution's governor. The complaints procedure leads to a decision that is binding on the governor. In the case of mediation, however, this is not the case, although the governor is required to state how he intends to respond to the duty member's findings. The mediation procedure is also open to the juvenile's parents (or guardians, step-parents, or foster parents) concerning matters that have arisen in the institution and that concern them personally. Appeals against the complaints committee's decisions can be filed with the Council for the Application of Criminal Law and Youth Protection.

249. The Ministry of Justice's medical adviser will mediate in an effort to resolve complaints about medical intervention. If this fails, the juvenile can appeal to a special appeals committee of the above-mentioned Council, whose members are medical practitioners. The juvenile can also address to the Council any objections to decisions taken at the central level by the placement officer or the Minister. The placement officer's decisions are preceded by an objections procedure.

### **Trends in residential and non-residential capacity**

250. It has become clear in recent years that the capacity for all kinds of punishment facilities for juveniles needs to be increased. This is attributable not so much to increased juvenile crime rates as to population growth, a more consistent policy on enforcement, and longer stays in residential facilities. The number of places in young offenders' institutions has increased as follows:

1997: 1,410 places

1998: 1,581 places

1999: 1,700 places

2000: 1,906 places

It is predicted that 3,044 places will be needed in 2007.

### **Waiting lists for young offenders' institutions**

251. The existing capacity of young offenders' institutions has proved inadequate to cope with the greatly increased demand in recent years. As a result, young offenders - especially those assigned to an institution providing treatment - often have to spend some time on a waiting list. This situation has given rise to considerable public concern in the past two years, as a result of which extra money has been made available to further expand the capacity of the young offenders' institutions. As long as the demand for places continues to increase, however, this extra money is not expected to solve the problem completely, and the matter will therefore continue to require extra attention over the next few years.

### **Treatment in young offenders' institutions**

252. There are two types of young offenders' institutions: detention centres and treatment centres. In detention centres, inmates receive guidance to foster their development. Stays are generally shorter than in treatment centres, which, besides developmental guidance, also treat for what are often serious behavioural problems. Treatment is based on teaching practical, social and problem-solving skills, changing irrational patterns of thought and stimulating moral development. Both types of institution are required by law to offer inmates a programme lasting 12 hours on weekdays and 8.5 hours on Saturdays and Sundays.

### **Specific treatment centres**

253. Some treatment centres focus on specific groups of young offenders. Den Engh, for instance, a centre in Den Dolder, focuses on young people with learning difficulties and serious behavioural problems. In recent years they have been using the "Socio Groups" system. This entails admitting groups of 10 to 12 young people at the same time, who follow a programme divided into six educational stages lasting a total of 18 months to two years. The young people are kept confined at the beginning and are gradually given more freedom; the programme concludes with individual training or a period of adjustment in society.

254. Harreveld Young Offenders' Institution uses a psychodynamic approach to treat young sex offenders. The Ministry of Justice has also purchased a number of places at the Glen Mills School, an establishment set up specifically for social delinquents aged 14 to 17 who are sensitive to group pressure. It is based on a model used in the United States of America. Appropriate behaviour is rewarded with privileges and higher status. Academic and sporting achievements also confer higher status. The young offenders placed here follow a programme lasting at least 12 months.

#### **Education at young offenders' institutions**

255. Education accounts for the lion's share of activities at young offenders' institutions. At private institutions it is provided by the Ministry of Education, but at State institutions it is currently in the hands of the institution's own educational staff. As from 1 August 2002, however, this inequality will be corrected, and State institutions too will provide schooling approved by the Ministry of Education. Furthermore, cooperative arrangements with other types of school will be introduced, allowing for a more differentiated range of courses.

#### **Placing minors who have been sentenced under the criminal law together with minors in residential care under civil law**

256. During the debate on the Young Offenders' Institutions Framework Bill (see part VIII.B.2) the House of Representatives raised the issue of placing young offenders sentenced under the criminal law together with others who have been placed in residential care under the civil law. The matter was investigated. A variety of aspects were considered, such as the problems of the target groups, accounts of how joint placement works in practice, comparison with neighbouring countries, legal considerations, reoffending, and the consequences in terms of supervision and quality. The investigation led to the conclusion that placing the two groups together does not lead to undesirable situations. The issue will be reconsidered as part of the evaluation of the Young Offenders' Institutions Framework Act, scheduled for three years after the Act entered into force.

#### **Detention of aliens/children at the border detention centre for asylum-seekers**

257. The measure of detaining aliens pending their expulsion from the Netherlands is applied as sparingly as possible where children are involved. Minors under 18 years of age are placed in a special division of the aliens' detention centre in Tilburg that is separate from the centre for adults. There they receive extra care and attention and follow a special programme in which education figures prominently.

258. In general, children housed in the border detention centre are accompanied by one or both parents. The centre has a separate wing for families with children, with special features such as a playground and educational facilities.

### **Understaffing at young offenders' institutions**

259. Young offenders' institutions, like other sectors of society, are afflicted by increasingly serious staff shortages as a result of the inelasticity in the labour market. This, combined in recent years with relatively high percentages of staff who cannot be deployed, has made it impossible for some institutions to provide the full statutory programme, as a result of which young people have sometimes had to spend longer periods in their rooms than is allowed by law. Nationwide recruitment drives have been launched to solve the problem.

### **Aftercare**

260. To help young people who have been deprived of their liberty - whether because of a custodial sentence or a non-punitive order - and to prepare for their reintegration into society, numerous agencies operating under the auspices of the Ministry of Justice as well as organizations involved with matters of guardianship and aftercare signed a covenant in 2000, under which they agreed to the temporary deployment of the youth probation and aftercare authorities to help prepare the aftercare accompanying release after a sentence or non-punitive order. They also agreed that if the last part of the sentence or order takes place on a non-residential basis, aftercare should be attuned to the supervision provided in that context.

## **C. Exploitation of children**

### **1. Economic exploitation of children, including child labour (art. 32)**

#### **Legislation and regulations**

261. As announced in the Netherlands initial report, the Working Conditions Decree has now come into effect. The Netherlands also has a new Working Conditions Act. The Decree has fewer prescriptive and proscriptive provisions than the old regulations in the 1919 Factories Act or the Working Conditions Act. It does, however, contain an absolute ban on certain activities for children under 18, besides defining certain kinds of work that 16- and 17-year-olds can only do under expert supervision, and that cannot be done at all by children under 16 years of age.

262. In its position paper on socially responsible business practice, the Government stated that the fundamental labour norms, as enshrined in the International Labour Organization (ILO) Declaration on Fundamental Rights and Principles at Work, unanimously adopted by ILO members in 1998, are not just binding on Governments; employers and trade unions too have committed themselves to promoting compliance with them. The Government is of the opinion that socially responsible business practice develops in a "bottom-up" fashion, starting with individual companies. In line with this view, the Government does not see legislation as the right instrument to achieve this goal, but thinks that the Government's role should be to facilitate and to encourage. Preparations are currently under way to set up an independent national knowledge and information centre to gather and disseminate information and to initiate research projects. For the rest, the Dutch Council for Accounting Standards has been asked to recommend ways of integrating social issues into company reports. The Government wants to encourage commercial companies to increase the transparency of their reporting in this area.

263. The Netherlands intends to ratify the ILO Worst Forms of Child Labour Convention (Convention No. 182) in the very near future. The Government has already complied with the main obligation it imposes, which is to draw up a programme of action. After consultations with social partners and NGOs, this programme of action was sent to the House of Representatives of the States General and debated there at the end of May 2001. Its focus is not on drafting regulatory measures to eliminate the worst forms of child labour, as existing legislation and regulations already provide for a comprehensive ban on the worst forms of child labour. Instead, it is geared towards preventing children from ending up in a situation of child labour, and towards the enforcement of existing legislation. The programme of action includes an overview of the Netherlands international activities in this area.

### **Enforcement policy**

264. The Labour Inspectorate, a department of the Inspection and Information Service of the Ministry of Social Affairs and Employment, monitors compliance with legislation on child and youth labour. In the event of serious infringements, the Inspectorate immediately draws up an official report or imposes an administrative fine. With infringements of a less serious nature the offender is first issued with a warning. When the Inspectorate discovers that a child aged 12 or under is involved in the work process it immediately draws up an official report on both the employer and the child's parents or guardian.

265. The Labour Inspectorate conducts annual investigations to monitor compliance with legislation relating to the Working Hours Act and the Working Conditions Act concerning children and young people. Furthermore, major surveys were performed in 1998 and 2000 focusing specifically on children and young people in the catering and retail industries. Questionnaires were issued to over 700 companies employing children and young people. The findings are being used to assess the risk of violations of statutory provisions on child and youth labour.

266. The Labour Inspectorate often conducts inspections on a project basis, and some of its projects specifically supervise compliance with regulations governing child labour. The emphasis tends to be on branches of industry that employ many children and young people, such as the retail trade, catering and agriculture, and on the period during which they work, such as the summer holidays. Some 1,500 inspections have been conducted annually in the framework of the projects conducted since 1997. Young people under 18 years of age are encountered in about 70 per cent of the companies inspected. About 45 per cent of the companies are pronounced wholly satisfactory. The violations that are encountered have to do with the nature of the work performed by children and young people, their working hours and failure to use proper risk assessment and safety procedures.

267. Compliance with legislation is promoted in ways other than monitoring and enforcement. Another important method is disseminating information, for instance through large information packages supplied to schools, a pamphlet (printed in several languages) on the rules governing child and youth labour, and a factsheet on youth labour aimed primarily at employers. The Ministry of Social Affairs and Employment will shortly be opening a special youth web site. It will focus on the legislation and regulations applicable to young people, but it will include a few pages devoted to the global problem of child labour.



**Estimate of the number of minors aged 13-18 doing paid employment**

268. It is impossible to give precise figures on the number of young people who have paid jobs. Cautious estimates may be based on the National Survey of Schoolchildren for 1999-2000, conducted by the National Institute for Information on Consumer Budgets (NIBUD) and studies carried out by the Labour Inspectorate. The National Survey of Schoolchildren compiled statistics on 13,000 pupils aged 12 and over, divided into subgroups that are representative of the country as a whole.

269. The survey revealed that 63 per cent of schoolchildren had part-time or holiday jobs, from newspaper rounds and babysitting to work as shop assistants and doing odd jobs. In the remaining statistics a distinction was made between part-time and holiday jobs.

270. In 1999, 48 per cent of those questioned replied that they had a part-time job of some kind on weekdays, with the figures for boys (49 per cent) being slightly higher than those for girls (48 per cent). Table 7 below, with a breakdown by age, shows that older pupils are more likely to have jobs.

**Table 7**

**Percentage of schoolchildren in paid employment, by age, 1999**

Age	Paid employment (in %)
12-13	28
14-15	52
16-17	67
18+	75

271. Schoolchildren work an average of 7.5 hours a week - the figures being the same for boys and girls - ranging from 5 hours a week for 13-year-olds to 8.9 hours a week in the highest age group.

272. In 1999, 38 per cent of schoolchildren had a holiday job (41 per cent for boys as against 35 per cent for girls). Table 8 below gives a breakdown of these figures by age. The average working week was 28 hours, ranging from 25 hours a week for girls to 31 hours a week for boys.

**Table 8**

**Schoolchildren with holiday job experience, % by age**

Age	Holiday job experience (in %)
12-13	21
14-15	40
16-17	54
18+	56

273. The Labour Inspectorate investigated 1,700 companies in the Netherlands in 2000, 18 per cent of which employed young people aged 13 to 17. In most cases (17 per cent) the employees were 16-17 years of age. Only 3 per cent of companies employed 15-year-olds, and only 1 per cent had employees in the 13-14 age range. The work consisted primarily of serving/washing up/kitchen work, filling shelves and/or manning cash desks, and other sales-related activities.

## **2. Drugs (art. 33)**

274. Dutch policy on drugs seeks to prevent and limit the risks associated with drug use, to the user, to his or her immediate environment, and to society. Demand for drugs can be discouraged and the risks of drug use reduced by pursuing a professional care and prevention policy. Dutch drugs policy also focuses on maintaining public order and combating drug-related nuisance, and on reducing the supply of drugs by combating drug trafficking, which is often part of international organized crime. To facilitate the effective enforcement of the Opium Act 1976, the Board of Procurators-General issued revised guidelines for investigations and prosecution, which took effect on 1 January 2001. They contain special provisions concerning minors - for example, they devote special attention to the production of drugs by minors and sales to minors.

275. Activities set up to inform and educate young people about drugs have been in place for years. Research shows that while education makes people better informed and changes attitudes, it does not have sufficient impact on actual behaviour. Broader-based prevention programmes are therefore considered more important in the Netherlands. Besides providing information, prevention programmes also promote behavioural skills, by making young people more self-reliant, teaching them to deal with peer pressure, and helping them learn how to make their own decisions. Recent encouraging trends show signs of stabilization, or even of a decline, in the consumption of drugs by schoolchildren in the Netherlands. For the first time in 16 years, the four-yearly Youth Health Survey shows a decline in the consumption of most drugs in the Netherlands by youngsters in the 10-18 age group (cannabis from 10.7 per cent in 1996 to 9.3 per cent, ecstasy from 2.2 per cent to 1.4 per cent, heroin from 0.5 per cent to 0.4 per cent, and cocaine from 1.1 per cent to 1.2 per cent).

276. The evidence points to big changes in both patterns of consumption and the reasons for taking drugs. Furthermore, trends follow one another in quick succession. In order to anticipate trends effectively, a new approach to prevention is required. This must include, in any case, long-term involvement in young people's social environment, through a range of activities, channels and locations: a community approach in the literal sense, linked to activities at schools and supported by media campaigns. The active participation of young people is essential.

277. The Netherlands Institute of Mental Health and Addiction has developed projects relating to drugs and alcohol as part of its programme "intoxicants and the healthy school", which is geared towards the development and implementation of school health care policy. Besides the traditional approach to health education in the classroom, these projects focus on the school environment and care for pupils at school and in the surrounding area. Each school develops its own health-care policy in relation to alcohol, drugs, medication, tobacco and gambling. In addition to regular classes, this policy includes identifying and helping pupils who have problems in these areas, school rules banning the use of intoxicants at school, and working with parents. The pupils, not only at secondary school but also in the higher classes of primary

school, are approached via intermediaries. Local and regional organizations, particularly municipal health services and care organizations for addicts, maintain contact with schools. They target their activities at all relevant groups: teachers, student supervisors, school management, parents, and the pupils themselves. In 2001, 75 per cent of secondary schools implemented the project on a structural basis.

278. Involving young people in debate is an important way of finding out what they think and of discovering new ways of reaching them. In 2001 youngsters chose the topic of cannabis for the annual National Youth Debate with a panel including the Health and Justice Ministers. The subject was discussed in an open atmosphere and political decisions were explained. The need for reliable, factual information and prevention was emphasized.

### **3. Sexual exploitation (art. 34)**

#### **Child prostitutes**

279. The National Plan of Action on Child Sex Abuse (NAPS) devises methods to identify child prostitutes at an early stage and to rehabilitate them. A research agency was commissioned to draw up a systematic survey of all existing methods, after which a handbook of good practices was prepared, based on the findings. In addition, the Ministry of Health, Welfare and Sport gives the Organization against Trafficking in Women structural support in the form of an annual subsidy of NLG 500,000 to ensure that the victims of trafficking in women receive proper care and assistance. This includes help for child prostitutes. The Organization works closely with other agencies providing care and assistance, with the police and the courts, with informants on trafficking in women, and with national and municipal authorities, and has thus built up a nationwide network. Examples include cooperation with the agency *De Opbouw* to help underage asylum-seekers who have ended up in prostitution, and cooperation with youth and welfare services and women's organizations to help prostitutes from all backgrounds. Municipalities are free to use subsidies earmarked for care for women to provide facilities for child prostitutes. The House of Representatives has asked for 500,000 euros to be made available from the budgetary resources of the Ministry of Health, Welfare and Sport for the "Asja" reception centre for child prostitutes in Leeuwarden.

280. The Ministry of Health, Welfare and Sport has created a special "prostitution" section within the programme for sex-related care for the years 2001-2004. An annual sum of NLG 750,000 has been set aside for this purpose. The Ministry intends to use this money to help achieve one of the objectives of the repeal of the ban on brothels, namely to protect prostitutes and improve their position, especially in the area of care and welfare. In the implementation of this programme, special emphasis will be placed on the diverse subgroups involved, including child prostitutes.

281. The initial report mentioned a bill to prevent and combat sexual harassment. The relevant act has since entered into force. It lays down an obligation to report all sexual misdemeanours involving schoolchildren. It also prescribes the code of conduct to be followed in the event of a sexual relationship between teacher and pupil.

282. As noted in the introduction, the Netherlands signed the Optional Protocol on the sale of children, child prostitution and child pornography in 2000 and has set the ratification procedure in motion.

### **Scrapping the double criminality requirement**

283. The Government does not yet envisage any possibility of dropping the requirement of double criminality. In the Government's opinion, this will only be worth considering when there is more agreement at the international level concerning the scope of criminal legislation on child sex abuse and the measure of protection it affords. For the record, the Government would also call attention to the fact that even if the requirement of double criminality were abandoned, it would remain difficult to gather evidence for effective prosecution in cases involving exploitative practices of this kind. After all, in the country where the evidence must be gathered, the act concerned is not a criminal offence.

### **D. Education for ethnic and linguistic minorities (art. 30)**

284. Of the minority languages originating in the Netherlands, the most widely spoken is Frisian, which is taught at primary and special schools and in the first few years of secondary education in the province of Friesland. Primary schools in Friesland are also permitted to use Frisian as the language of instruction.

285. The main ethnic minorities in the Netherlands are the Turkish, Moroccan, Surinamese and Antillean communities. There are also Greeks, Italians, people from the former Yugoslavia, Cape Verdeans, Portuguese, Spaniards, Tunisians, Moluccans and Romany groups, as well as caravan-dwellers. In addition there are refugees. All these groups are targeted by minorities policy.

286. Ethnic minorities have a high percentage of young people relative to the rest of the population, especially in the four largest cities. In Amsterdam, 57 per cent of primary school pupils are from ethnic minorities, in The Hague the figure is over 49 per cent, in Rotterdam 55 per cent, and in Utrecht over 42 per cent. Projected figures show that 62 per cent of school-leavers in Amsterdam will be from ethnic minorities around the year 2005.

287. The Netherlands will implement the Framework Convention for the Protection of National Minorities in respect of Frisians and persons who are lawfully resident in the Netherlands and belong to one of the following groups: Greeks, Italians, persons from the former Yugoslavia, Cape Verdeans, Moroccans, Portuguese, Spaniards, Tunisians, Turks, Surinamese, Antilleans, Arubans, refugees, asylum-seekers, caravan-dwellers and Romany groups.

### Minority language and culture teaching

288. The Minority Language Teaching Act (OALT) came into effect on 1 August 1998, giving municipal authorities primary responsibility for providing minority language teaching.

Municipal authorities decide which languages are offered on the basis of the stated needs of the parents of children from ethnic minorities and in consultation with school boards. In principle, all minority languages are eligible for consideration.

289. The Minority Language Teaching Act has a dual objective. The first is to teach children their mother tongue and help them to maintain their ties with their own culture. This involves minority language instruction outside the regular timetable, which is offered to all pupils in primary education not only by schools, but by other institutions as well. The second objective is to enable municipalities to boost Dutch language skills as part of their compensatory policy (*Gemeentelijk Onderwijs Achterstandenbeleid*) by using OALT resources. Classes provided in this framework are taught within the regular curriculum. At present, this is only possible in the lowest grades of primary school. An amendment is currently under preparation to extend this facility to the higher grades of primary school too.

290. Plans are under way to change the course of minority language teaching with effect from 1 August 2004. The Education Council was asked for its views on how it should be developed, and implementation of the Act will be charted in all municipalities receiving OALT resources. Both reports will contain important elements of the new approach. All relevant parties (municipal authorities, organizations representing ethnic minorities, trade unions, etc.) will be involved in these plans. In anticipation of the new approach, the House of Representatives has agreed to extend the scope for using OALT resources for Dutch language support to the upper grades of primary school.

291. Many children from ethnic minorities still lag behind quite considerably upon starting school, but they made large strides in the years 1988-1998. In the upper grades of primary school they indeed progressed more rapidly in this period than their Dutch counterparts. In Dutch they lag behind by two years at most, while in arithmetic the difference is only six months. Those attending schools with large numbers of children from ethnic minorities have progressed at the same pace as those at other schools. Better primary school results mean that more children from ethnic minorities are going on to more advanced forms of secondary education and that they are in general doing better at secondary school.

292. To counter disadvantage among ethnic minorities in terms of language skills and knowledge the Netherlands also has programmes aimed partly at the parents. These include:

- Policy geared towards early childhood education, focusing on ethnic minority children in the 0-8 age group and their parents. Young children are prepared for school in a range of “Headstart” and similar family-oriented programmes (*Instapje, Opstapje, Opstap and Overstap*);
- Policy designed to combat early school leaving among ethnic minority children, involving parental participation and the cooperation of welfare services.

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