



**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**

**Third periodic reports of States parties due in 2007\* \*\***

**THE NETHERLANDS**

[22 May 2007]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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

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## I. GENERAL IMPLEMENTATION MEASURES

### A. Article 4 (Amendments to Dutch legislation)

1. The following statutory measures have been taken since the submission of the second periodic report:

- Passage into law of the Equal Treatment (Disability or Chronic Illness) Act 2003 (art. 2. Non-discrimination)
- Replacement of the Social Assistance Act by the Work and Social Assistance Act, 1 January 2004 (art. 27, paras. 1-3. Standard of living)
- Entry into force of the Adoption (Conflict of Laws) Act, 1 January 2004 (art. 21. Intercountry adoption)
- Amendment of the rules regulating changes in minors' surnames, 9 June 2004 (art. 7. Name and nationality)
- Change in the definition of the term "unaccompanied minor asylum seeker", 20 July 2004 (art. 39. Refugee children)
- Entry into force of the Artificial Insemination (Donor Information) Act, 2004
- Entry into force of the Equal Treatment in Employment (Age Discrimination) Act 2004 (art. 2. Non-discrimination)
- Entry into force of the new Youth Care Act, 1 January 2005
- Entry into force of the Childcare Act, 1 January 2005 (art. 18, para. 3. Childcare services)
- Entry into force of the Revised Brussels II Regulation on cooperation between EU Member States in child abduction cases, 1 March 2005
- Submission to parliament of a bill on the promotion of shared parenting and responsible divorce on 9 June 2005 (art. 9. Separation from parents)
- Entry into force of the life course savings plan, 1 January 2006 (art. 18, para. 1. Parents' responsibility for the upbringing and development of the child)
- Exceptional Medical Expenses Act, (art. 24. Health and health care)
- Entry into force of the Healthcare Insurance Act, 1 January 2006
- Passing of bill on equal treatment of men and women with regard to employment, vocational training and promotion, and working conditions, 24 January 2006 (art. 2. Non-discrimination)

- Submission to parliament of bill on restraining orders in cases of domestic child abuse, 1 August 2006
- Introduction of the Social Support Act, 1 January 2007

### **Youth Monitor**

2. In response to the Committee's recommendation, the Netherlands is now developing a data collection system that is compatible with the Convention and collects data disaggregated by sex, age and other relevant indicators. Over the next few years, central government intends to move to a single "Youth Monitor" database.

3. The Youth Monitor is intended to help government monitor the key aims of national youth policy: to prevent and reduce early school-leaving and to prevent or reduce social marginalisation and delinquency. It is also intended to show the coherence between the results achieved by the various parties working in the youth policy field: the provinces (responsible for youth care) and the municipalities (responsible for preventive youth policy).

4. The database will include information on all children and young people in the Netherlands up to the age of 23. The indicators for it have now been established. The database will record the situation of young people in a number of fields: population, education, health, justice and employment. Each field will have multiple indicators which together provide a statistical overview of the situation of young people and trends within it. It will be possible to disaggregate the dataset by age, sex, origin and region.

5. The Youth Monitor will not contain information about abuse, sexual exploitation or child trafficking. The data on child abuse will be provided through research on the nature and extent of its occurrence. In addition, the Ministry of Justice and the Ministry of Health, Welfare and Sport have together commissioned the development of a national registration system for child prostitution. Work is now being done on this.

6. The Youth Monitor will be made available via a website, which will eventually also carry information in English.

### **National Action Plan for Children**

7. The Committee recommended that the Netherlands should expedite the elaboration and adoption of its current action plan for the implementation of *A World Fit for Children*, the outcome document of the General Assembly special session on children held in May 2002. In August 2004 the government responded to this recommendation by laying before parliament its National Action Plan for Children 2004. This document indicates how the Netherlands intends to implement *A World Fit for Children*. An English-language version of the plan was presented to the UN in August 2004 and is appended to this report. (**Annex 1**)

### **National Institution for Human Rights**

8. In September 2005, four organisations active in the human rights field or sections of it - the National Ombudsman of the Netherlands, the Equal Treatment Commission, the Data Protection Board and the Netherlands Institute of Human Rights (SIM) - proposed the establishment of a

National Institution for Human Rights. These organisations have since conducted further research on the exact requirements to ensure full compliance with the UN's Paris Principles. The remit of the proposed national institution might include: public education, advice-giving, treaty monitoring and acting as an international contact point. A decision on the proposal has yet to be taken at political level.

### **Children's ombudsman**

9. As yet, the Dutch government sees no reason to appoint a special ombudsman for children. The current system makes sufficient provision for the performance of the functions of the children's ombudsman as envisaged by the UN Committee on the Rights of the Child.

10. The Netherlands is currently examining the feasibility of establishing a Dutch National Institution for Human Rights. The possible role of such an institute in monitoring the implementation of the UN conventions, including the Convention on the Rights of the Child, is being explored as part of this process. Meantime, however, a number of members of parliament have submitted a private members' bill providing for the appointment of a children's ombudsman. The government is now awaiting the parliamentary response to this.

### **Commissioner for Youth Policy**

11. The Committee also recommended that the new government-appointed Commissioner for Youth Policy should facilitate interministerial coordination and coordination between national and local authorities, and that the Commissioner should be allocated sufficient financial and human resources to fulfil his mandate. It further recommended that the effectiveness of the Commissioner for Youth Policy should be evaluated with a view to establishing a permanent mechanism to coordinate the implementation of the Convention.

12. Over the last few years, the Commissioner for Youth Policy has worked hard to improve coordination between ministries, between the various tiers of government and between executive and other agencies. The government has met all the Commissioner's requests for financial and human resources. The performance of the Commissioner for Youth Policy is to be evaluated in 2007 as part of a more general evaluation of interministerial cooperation in the youth policy field ("Operation Young").

### **Civil society organisations**

13. The Committee recommended that the Netherlands should consistently seek cooperation with civil society in implementing the Convention, including in the area of policy-making. Representatives of the relevant ministries and of the Dutch NGO Coalition for Children's Rights, an umbrella organisation for civil society organisations in the field of children's welfare and rights, meet twice yearly to discuss the implementation of the Convention. This report is therefore to some extent the product of consultations with such organisations. Dutch government and the Coalition for Children's Rights jointly fund a specific Youth Report, in which children and young people express their own views on the importance of the Convention and on the way it is being implemented in the Netherlands. One such Youth Report was sent to the UN Committee on the Rights of the Child in 2002.

## B. Article 12 (Making the Convention widely known)

14. Over the last five years, government funding has been made available to educate and inform the public about children's rights in the Netherlands. The Coalition for Children's Rights receives an annual subsidy for the production of information materials about the terms of the Convention, including a website on the rights of the child ([www.kinderrechten.nl](http://www.kinderrechten.nl)). This website offers children, parents and professionals not only general information about the Convention and children's rights, but also specific information about recent developments in the area. For instance, children can download or order information for use in classroom presentations about children's rights, parents can order a book giving practical advice on how to interpret the rights conferred by the Convention in various situations, and professionals can obtain information specifically designed for them. For example, they can order a handbook on the interpretation of the Convention and other international law on the rights of children and young people (*Handboek Internationaal Jeugdrecht*).

15. The website also provides access to training materials for lawyers, youth services providers and teachers at different levels within the education system. This reflects the Committee's recommendation that the Netherlands should pursue its efforts to ensure that the principles and provisions of the Convention are widely known and understood by adults and children alike.

16. The following publications have been produced with public funding:

- G.C.A.M. Ruitenbergh, *Het Internationaal Kinderrechtenverdrag in de Nederlandse rechtspraak*, 2003, ISBN 90 6665 519 4. By providing a systematic survey of, and commentary on, the relevant case law since the CRC entered into force in the Netherlands, this book helps to ensure that the CRC percolates through into Dutch legal practice. The survey is expanded and updated on a regular basis.
- S. Meuwese, M. Blaak and M. Kaandorp (eds.), *Handboek Internationaal Jeugdrecht*, 2005, ISBN 90 6916 500 7. Designed for professionals in the legal and youth policy fields, this handbook provides a detailed explanation of the CRC and other international legislation on the rights of minors. Like the previous publication, it is expanded and updated on a regular basis.
- M. Kalverboer and E. Zijlstra, *Het belang van het kind in het Nederlands recht - voorwaarden voor ontwikkeling vanuit een pedagogisch perspectief*, 2006, ISBN 90 6665 7693. On the basis of art. 3, para. 1 and art. 6, para. 2 CRC, this book analyses the term "the interests of the child" in relation to the right to development and casts light on it from an educational and child psychology point of view.
- M. Kalverboer and E. Zijlstra, *Kinderen uit asielzoekersgezinnen en het recht op ontwikkeling - het belang van het kind in het Vreemdelingenrecht*, 2006, ISBN 90 6665 768. This book discusses the significance of art. 3, para. 1 and art. 6, para. 2 CRC in relation to the right to development of children of asylum seekers whose cases are still under consideration or who have exhausted all legal procedures. It explains the significance of the Convention in relation to the Dutch Constitution and to various international human rights conventions, and also casts light on its significance within the various areas of Dutch law.

17. These publications are intended, among other things, to improve implementation of the Convention by professionals such as policymakers, lawyers, public prosecutors and the judiciary involved in the application of the law, for example in relation to aliens.

### **C. Article 44, paragraph 6 (Availability of reports)**

18. The Netherlands' second periodic report on the implementation of the UN Convention on the Rights of the Child was disseminated widely. Printed versions were published in both Dutch and English and the complete text of the report is available both on the website on the rights of the child and on that of the Ministry of Foreign Affairs.

19. This third report will likewise be disseminated both in print and digitally via the websites of the relevant ministries.

## **II. DEFINITION OF THE WORD "CHILD"**

### **Article 1**

20. For definition, see initial report.

## **III. GENERAL PRINCIPLES**

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

21. The government accords a high priority to action to combat discrimination and promote equal opportunities. In 2003 it drew up a National Action Plan against Racism and a Racial Discrimination Monitor is published each year. "Anti-discrimination" is a topic addressed within education and schools are active in combating racism. Funds have been reserved to expand the network of anti-discrimination bureaux so that anyone who has experienced discrimination can have easy access to their services.

22. A campaign under the slogan "Discrimination? Phone now!" was launched on 29 June 2004 to encourage victims or possible victims of discrimination, or people who thought they had witnessed discrimination, to phone a national hotline (0900-2 354 354) or visit a website ([www.belgijk.nl](http://www.belgijk.nl)) for advice and information. The national hotline still exists and has the support of a network of organisations with expertise in the equal treatment and anti-discrimination fields. They aim to achieve close cooperation by sharing knowledge and running an effective helpdesk manned by staff from a range of anti-discrimination bureaux. Where necessary, callers are referred to national or specialist NGOs, or to the Equal Treatment Commission. The project has been implemented by RADAR (the Rotterdam Anti-Discrimination Action Council) via the National Federation of Anti-Discrimination Bureaus (*Landelijke Vereniging van Anti-Discriminatie Bureaus en meldpunten, LVADB*).

23. The initial campaign targeted discrimination on all the grounds listed in Article 13 of the EC Treaty (sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation), as well as other areas, such as employment. It received 80% of its funding from the Community Action Programme to Combat Discrimination and the remaining 20% jointly from four ministries: Interior and Kingdom Relations; Health, Welfare and Sport; Justice; and Social Affairs and Employment.

24. That campaign was followed by a second one, run under the slogan “**Discrimination? Count me out!**” This was launched on 1 December 2004. It was designed jointly by the same four ministries and is being run by the National Bureau against Racial Discrimination (*Landelijk Bureau ter bestrijding van Rassendiscriminatie*, LBR) and other organisations. Its prime target is victims of discrimination and unequal treatment. They are offered information on minimising the impact of discrimination in their day-to-day lives and ways of standing up to people who discriminate against them, consciously or otherwise. The second target of the campaign is the institutional setting in which discriminatory behaviour can occur. A brochure has been published containing practical tips for dealing with discrimination. The first copy was presented to the State Secretary for Social Affairs and Employment on 31 January 2006. In addition, a book has been published containing specific information on ways in which organisations can combat discrimination.

25. Finally, the Minister for Immigration and Integration launched the “&” campaign to promote contact between immigrants and members of the host community. The campaign revolves around “good examples” and focuses on areas such as education, sport and civil society. For the period from 2006 to the end of 2009, the government has set up a fund to subsidise local projects promoting contact between different ethnic communities. The hope is that this will automatically lead to lasting friendships between citizens of different ethnic origin. The fund may also spawn projects for children and young people.

### **Equal treatment legislation**

26. Since the second periodic report in 2002, statutory protection against discrimination has been considerably extended in the Netherlands.

27. The Equal Treatment (Disability or Chronic Illness) Act entered into force in 2003. The Act implements Council Directive 2000/78/EC and prohibits discrimination on the grounds of disability or chronic illness in employment and vocational training. The same protection will eventually be extended to the field of public transport.

28. In addition, numerous amendments have been made to the Equal Treatment Act in implementation of European directives. For example, the Act now prohibits harassment and the burden of proof has been reduced for victims of alleged breaches.

### **Age discrimination**

29. The Equal Treatment in Employment (Age Discrimination) Act entered into force on 1 May 2004. The Act is in implementation of Council Directive 2000/78/EG, which establishes a general framework for equal treatment in employment and occupation, and its purpose is to combat age discrimination.

30. The Act prohibits age discrimination in employment, occupation and vocational training, except where there is objective justification for imposing an age limit. The prohibition applies to the entire field of employment, from recruitment, selection and help for jobseekers right through to terms and conditions of employment and dismissal. It also applies to vocational training, career guidance, and the membership of employers’ organisations, trade unions and professional or occupational associations. Under the Act, job adverts may not specify an age limit unless there

are objective reasons for doing so, and such reasons must be stated. The Act also contains provisions protecting victims of alleged age discrimination against dismissal (not only workers, but also witnesses). Conditions of employment in breach of the Act are null and void. The Act also includes prohibitions on harassment, instructing others to discriminate, and discrimination with regard to membership of, or involvement in, employers' organisations, trade unions and professional or occupational associations.

31. The Act provides for compliance to be monitored by the Equal Treatment Commission and gives the Commission powers to investigate complaints. Since it entered into force, the Commission has received around 300 formal complaints and 1,500 enquiries about age discrimination. As well as issuing formal opinions on individual complaints, the Commission has also issued an advisory opinion on age discrimination in the supermarket sector.

### **Sexual harassment**

32. On 24 January 2006 the House of Representatives passed a Bill implementing Directive 2002/73/EC in the Netherlands. The directive in question amends Council Directive 76/207/EEC of the European Parliament and of the Council, dated 23 September 2002, on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. The effect of the Bill is to make sexual and other harassment a form of illegal discrimination. This will extend the statutory protection available to workers. The Bill also makes it illegal to victimise any worker experiencing sexual or other harassment. It strengthens the legal position of workers with regard to sexual and other harassment by:

- Shifting the burden of proof in certain cases, including those involving alleged sexual or other harassment
- Introducing a new avenue of appeal to the Equal Treatment Commission
- Providing greater protection against victimisation where sexual or other harassment is alleged

33. The Senate voted in favour of the Bill on 2 October 2006 and the Act is to enter into force in the near future.

### **Criminalisation of systematic discrimination**

34. New legislation which entered into force on 1 February 2004 has made systematic discrimination a separate criminal offence carrying double the normal penalties. The legislation defines systematic discrimination as discrimination practised by a person who makes an occupation or a habit of it, or by two or more persons acting in concert. It places a greater emphasis on the gravity of more serious forms of discrimination. The criminalisation of discrimination on grounds of disability has been accompanied by an extensive campaign directed at people in an "official capacity, profession or business" and channelled principally through industry and professional journals. There has also been a publicity campaign targeting people with disabilities.

## **Radicalisation**

35. Regrettably, the Netherlands is currently witnessing a growing radicalisation among two different sets of young people: those attracted by the ideology of the far right and those who set their Islamic beliefs above the law of the land. These young people reject the whole concept of an open, pluralistic and tolerant society and are increasingly turning their backs on mainstream society. Some are even prepared to use violence to achieve their ends. Since these developments are breeding fear and resentment among the general public, they constitute a serious threat to the social cohesion and security of the Netherlands.

36. The young people involved are becoming radicalised at an increasingly early age. It is alarming to learn, for example, that young people in certain circles actually regard violent jihad as attractive and “cool”.

37. Since 2004, government authorities at national and local level have been establishing programmes to combat radicalisation. They are working with Muslim and other organisations to try to keep young people within mainstream society and to increase their democratic awareness and that of the surrounding community. In addition, professionals like police officers and youth workers are being trained to detect radicalisation and respond effectively. In the case of younger children, it is important to organise activities in schools, involve peer groups and parents, and ensure some form of supervision of the Koran classes provided in mosques. Various activities of this kind are being undertaken around the country: for example, a national *Respect Day* is being held and the mosques in Rotterdam are becoming increasingly open about the teaching given on their premises. Such measures will remain an enduring focus of government concern.

## **B. Article 3 (Interests of the child)**

38. As a result of the Convention and the conclusions and recommendations of the UN Committee on the Rights of the Child, there is now a clear trend towards attaching more importance to the interests of the child in decisions concerning children.

39. Whereas the stress used to be placed on the autonomy of the nuclear and wider family (something still seen as very important), there has recently been a shift in favour of the interests of the child. In some cases, these are now given priority.

40. Previously, agencies tended to intervene in the family situation only as a very last resort. Now, they are quicker to look for ways of exercising moral or legal pressure if there are signs that this is desirable in the interests of the child. Such signs need to be picked up as swiftly as possible so that help and support can be offered in time. The forthcoming introduction of an “**electronic child file**” will help in this respect by enabling agencies to exchange information about minors digitally.

## **Right to youth care**

41. The new Youth Care Act introduces a right to youth care. (For further details, see information on art. 18, para. 2.)

### **Best interests of the child in the immigration policy field**

42. Many children come to the Netherlands with parents who are applying for residency. At the beginning of the application procedure they usually have the same interest in being given legal residency as their parents. However, it sometimes happens that children remain in the Netherlands without legal residency for years on end and that the interest of the child in remaining in the country then becomes different from that of the parents. The fact that a child has lived for a long time in the Netherlands does not mean that it should automatically be permitted to remain, but its particular interests and the special circumstances in which children can find themselves can be taken into account in a separate application procedure and may give reason to grant residency. The child (or, if necessary, his/her legal representative) can submit an application to this effect.

### **Legal precedents from the Council of State**

43. The country's highest administrative court, the Administrative Jurisdiction Division of the Council of State, initially took the view that, insofar as the CRC is directly applicable, it creates no special rights for children whose parents are refused residency under Dutch immigration law. In recent cases, however, the Division appears to have modified its view in this respect. It now considers firstly whether a provision of the Convention has any direct effect and then, if so, the extent of that effect.

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

### **Appointment of committee of experts on neonatal termination of life and termination of late-term pregnancy**

44. In 2006, the Minister of Justice and the State Secretary for Health, Welfare and Sport set up a committee of experts to advise the Public Prosecution Service on cases of termination of the life of neonates experiencing great suffering and cases of late termination of pregnancy. The government's objective in appointing the committee is to induce doctors to be more open about medical decision-making in cases of this kind.

45. The committee of experts has five members: a lawyer (the chairman), three doctors (sharing one vote) and an ethicist. Based on the due care criteria - as defined by case law - the committee will assess whether the doctor exercised due care in terminating the life of the newborn or the late-term pregnancy. The committee's recommendation will not supersede the Public Prosecutor's decision, but will serve as an expert opinion.

46. The appointment of the committee of experts will in no way affect the application of the criminal law to such cases. Terminating the life of a newborn experiencing severe suffering is and will remain an offence under Article 293 of the Dutch Criminal Code. Similarly, termination of late-term pregnancy is, and will remain, a criminal offence under Article 82a of the Criminal Code.

47. The letter to the House of Representatives is included as **Annex 2** to this report.

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

##### **Youth participation**

48. The introduction of the new Social Support Act on 1 January 2007 makes municipalities (instead of central government) responsible for a number of matters directly affecting young people. These include welfare, care, preventive youth policy, informal care in the community and voluntary work. The Act creates an obligation for municipalities to involve the public - including younger members of it - in the development of local-level policies. The municipal council, municipal executive and civil society organisations/general public must decide together at local level how this is to be done. During the introduction of the new Act, an explicit emphasis is being placed on the involvement of young people.

49. The majority of central government operating subsidies to youth organisations have now been terminated in order to concentrate resources on the remainder and encourage organisations to take responsibility for their own affairs. Among the few organisations still receiving central government subsidies are those for young people with disabilities. There is also a new scheme to encourage voluntary work by and for young people by subsidising projects involving it.

50. The National Youth Council, an umbrella organisation embracing some thirty youth organisations, is being subsidised to speak on behalf of the nation's young people and to stimulate youth participation at local level. It is also receiving project and programme subsidies targeting work on the environment and young people at risk. The Youth Council is responsible for organising the annual National Youth Debate, held in parliament and involving young people and national-level politicians. The debate is the culmination of several preliminary rounds and is funded by one of the ministries most closely involved with young people. The Youth Council has a consultation meeting with the State Secretary responsible for youth policy every two years and since 2006 officials have also held systematic discussions with young people at various stages of policymaking.

51. The youth wings of national political parties are subsidised via the relevant parties. They seek to influence the parties and recruit and train young people to participate in political life.

52. It is a condition of various subsidy schemes relating to local activities or voluntary work that young people should be involved in policy design and implementation. (These schemes include one giving municipalities funds to organise sport and exercise-related activities for disadvantaged youngsters aged 4 to 19, the scheme to encourage voluntary work by and for young people, and the successor to that scheme for the 2007-2008 period).

53. Youth participation is also viewed as a priority within the European Union. In late 2005 the Netherlands sent the European Commission a report on the country's progress in achieving shared aims in this area.

54. The youth care field offers a specific example of respect for the opinion of the child. The Youth Care Act provides that any application for youth care normally requires the consent of the client or, in the case of a child under the age of 12, the consent of his/her legal representative. If the child is aged between 12 and 16, consent must be obtained both from the legal representative and from the child. A refusal of consent by the legal representative can be ignored if the child

persists in a carefully considered request for care. Minors aged 16 to 18 have the right to decide for themselves. However, where youth care is the outcome of a child protection order or is provided in the context of the work of an Advice and Reporting Centre for Child Abuse and Neglect, no consent is required.

### **Child participation in policy and plans for their local environment**

55. Children are being actively involved in various projects to develop and support local policy and physical planning initiatives. Their involvement was in fact an explicit criterion in a competition for child-friendly local planning initiatives run by central government in cooperation with the Child Friendly Cities network.

### **Participation by ethnic minority children**

56. Central government is taking special steps to encourage participation by ethnic minority children. The Minister for Immigration and Integration has taken various measures to promote the involvement of young people in, and in relation to, the National Ethnic Minorities Consultative Committee (*Landelijk Overleg Minderheden*, LOM). The Committee is composed of representatives of ethnic minority organisations and is the government's official discussion partner in the field. Subsidies for projects promoting participation by ethnic minority children are regularly provided under an incentives scheme for third-party initiatives relating to the integration of ethnic minorities generally.

57. The Minister for Immigration and Integration has made separate arrangements with 21 municipalities concerning participation by their large Antillean communities, with special emphasis on their younger members. There are 123 projects aimed at improving the position of young Antilleans and a special team has been working since September 2006 to ensure their close involvement in the implementation of these projects.

### **Legal and other assistance for children**

58. For legal and other assistance, children can turn to services like a special telephone counselling and referral service for children (*Kindertelefoon*), Youth Information Centres (*Jongeren Informatie Punt*) and Children's Law Centres (*Kinder-en Jongerenrechtswinkel*), or make use of the subsidised legal aid system.

#### *Telephone counselling and referral service*

59. "Kindertelefoon" is a telephone help line for young people between the ages of 8 and 18. They can use it anonymously to obtain information, advice or help on a wide variety of topics. Where necessary, staff refer callers to specialist services in their home area. The help line is available free of charge on every day of the year. Since the Youth Care Act became law it has been part of a youth care office.

*Youth Information Centres*

60. The Youth Information Centres provide young people aged between 12 and 25 with free information and advice on work, education, drugs, finance, housing, rights and obligations, personal relationships and leisure activities. Some Youth Information Centres are accommodated within libraries, neighbourhood community centres or schools, while others are on separate premises. They provide both a walk-in service and a telephone and e-mail helpdesk.

*Legal assistance*

61. Children's Law Centres provide free information and advice about legal rights and obligations for anyone under the age of 18. Clients can attend a surgery or seek advice by telephone or e-mail. The Youth Care Act enables local government to fund Children's Law Centres. Subsidies from the Ministry of Justice were terminated with effect from 1 January 2006, in part because initial and additional legal assistance are available to minors within the subsidised legal aid system. Provided that the nature of the case and the financial circumstances of the client meet the criteria laid down in the Legal Aid Act, legal aid can be obtained to cover most, if not all, of the costs. Where minors are concerned, the financial circumstances of the parents are also taken into account, unless the case involves a conflict with them.

62. In practice, this system means that anyone in the Netherlands who is on a relatively low income (including children and young people) can obtain initial legal assistance (information, referral and brief legal advice) at any of the thirty local Legal Aid and Advice Centres (a *Juridisch Loket*). These centres can help minors gain access to the law. Their staff are skilled in dealing with children and young people. In particular, they are trained to give clear explanations of legal questions. The organisation makes good use of modern means of communication such as ICT and experience shows that young people are familiar with its services. Where legal problems and other issues require more extensive legal assistance or representation of the child, the Legal Aid and Advice Centres refer minors to appropriate specialist lawyers since they themselves have no real specialist in-house expertise. Whether and to what extent minors are required to contribute to the costs of this more extensive legal assistance will depend on the minor's own resources and those of the parents.

63. The work of a guardian ad litem appointed by the court in a case where there is a conflict of interest between the child and his/her parents or guardian can also be funded by the public purse, provided that the work falls within the categories defined in relevant statute law and that the person appointed is registered with the Legal Aid Council or has a contract with it. In such cases, the minor is not required to make any financial contribution.

**IV. CIVIL RIGHTS AND FREEDOMS****A. Article 7 (Name and nationality)**

64. There have been three changes in the rules relating to the right to change the surname of minors.

65. In 2001 it became possible to change the surname of a child to match that of its parents' other children; this may be desirable where the children have received different surnames at birth as a result of the rules of private international law or where their surnames differ as a result of acknowledgement, legitimation or adoption.

66. In 2004, there was another change in the rules, this time due to the judgment reached by the European Court of Justice on 2 October 2003 in the case of *Garcia Avello v. Belgium* (C-148/02). Any minor who possesses both Dutch nationality and the nationality of another EU Member State, or of a third country, can now change his/her surname to the name that s/he is entitled to bear under the law of the other country concerned.

67. Finally, again in 2004, the rules governing changes in the surnames of minors over the age of 12 were tightened up. Applications for such changes from minors aged 12 and over are now granted if the child not only consents but, despite objections by the other parent, expresses a persistent wish to change his/her name.

### **Acquisition of nationality**

68. Any child born in the Netherlands automatically acquires Dutch nationality provided that one of the parents holds Dutch nationality at the time of the child's birth, or did so at the time of death in the case of a posthumous child.

69. Similarly, any child legally adopted in the Netherlands, the Netherlands Antilles or Aruba automatically acquires Dutch nationality on the first day after a three-month period following the court's decision, provided that the child was a minor on the day when the court granted the adoption order and that at least one of the adoptive parents was a Dutch citizen at that time.

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

71. A foreign minor who is acknowledged or legitimated by a Dutch national can be granted Dutch nationality on request. In 2003 this was made conditional on the minor having been in the care of the Dutch national by whom he has been acknowledged or legitimated for an uninterrupted period of at least three years following acknowledgement or legitimation. This condition was introduced to prevent abuse of the rule but its effects have sometimes proved to be unreasonable in practice. The difference in nationality rights between children acknowledged before and after birth and the distinction between children who have been acknowledged and those born in wedlock are both regarded as undesirable. The rule can also result in the child becoming temporarily stateless, since some states confer the right to the mother's nationality on the child only if the identity of the father is unknown. Where the child has been acknowledged or legitimated by a Dutch national, the identity of the father is known and the child may therefore be denied the nationality of the mother.

72. In the light of these problems, a Bill has been laid before parliament amending this rule. The effect of the amendment is that any foreign child acknowledged by a Dutch national after its birth and before the age of seven will automatically receive Dutch nationality. The same applies to any foreign national under the age of 18 who becomes the child of a Dutch national via legitimation but without acknowledgement. And, finally, any foreign national under the age of 18 will automatically receive Dutch nationality if s/he is acknowledged by a Dutch national and that person proves his paternity within one year of the acknowledgement. If parliament votes in favour of the Bill, the amendment will enter into force in 2007.

### **Human Fertilisation (Donor Information) Act**

73. The Human Fertilisation (Donor Information) Act entered into force in 2004. In accordance with Article 7 of the UN Convention on the Rights of the Child, it gives children born with the aid of fertilisation techniques the right to know the identity of the donor. Once the child has reached the age of sixteen, it can receive such information on request, unless the donor refuses consent and gives reasons which are deemed to outweigh the possible adverse consequences of withholding the information from the child. The organisation responsible for the release of the information also provides associated support and counselling. Medical information which is relevant to the healthy development of the child can - at his/her request - be supplied to the child's family doctor. Information on the donor's physical characteristics, educational background, occupation, social background and certain personal characteristics (to be determined by secondary legislation) can be released to the child earlier (once it has reached the age of twelve) or to the parents of the child (if it is under the age of twelve).

### **B. Article 8 (Right of the child to preserve or re-establish its identity)**

74. The government is focusing particular attention on young Antilleans and Moroccans because they are more likely to become involved in crime, leave school early and become unemployed. The government is taking action to improve the prospects for these young people.

75. Since 2005, more than half of all minors in the two largest cities - Amsterdam and Rotterdam - have had a non-Western background. The number of ethnic minority students entering higher education has doubled over the last ten years but a large proportion of young people from the ethnic minorities are doing less well. Many of them leave primary school with an inadequate command of Dutch. The government is doing its utmost to allay this problem, for example through pre-school and early years education and through remedial measures to combat early school-leaving throughout the school career.

### **C. Article 13 (Freedom of expression)**

76. The relevant information is contained in the second periodic report.

### **D. Article 17, paragraph c (Access to information)**

#### **Children's broadcasting**

77. The public broadcasting system has a statutory obligation to serve all sections of society, including children and young people. Since September 2005 there has been a daily schedule of programmes for children from 7 a.m. to 7 p.m. under the name of "Z@ppelin". There is also a

special daily news programme for children, broadcast twice on schooldays. The Netherlands Broadcasting Corporation (*Nederlandse Omroep Stichting*, NOS) - the public broadcasting umbrella organisation - has a statutory obligation to provide these special news broadcasts for children.

78. Children also have access to a wide range of educational and informative programmes. The Netherlands Programme Foundation (*Nederlandse Programma Stichting*, NPS) - one of the public broadcasting companies - has a statutory obligation to ensure that its programmes are educational and are appropriate for young people. Dutch broadcasting organisations regularly win international prizes for their children's programmes.

79. In recent years, a great deal of attention has been paid to media education. Children are learning not just practical skills, but also how to assess the value of media information. The Cinekid organisation, funded by the Ministry of Education, Culture and Science, is an important focus of expertise in the field of children and the media. Cinekid encourages the creation of high-quality media productions for children and empowers children to deal responsibly with the various media.

### **Reading**

80. Reading helps to develop children's minds and characters. For this reason, the Dutch government actively promotes reading among children and young people. From their earliest preschool years, they are given access to attractive and rewarding reading materials. Public libraries play a key part in this. Over 90% of Dutch primary schools have systematic contacts with the public library system. This ensures that children learn at an early age how and where to find good-quality reading materials and reliable information.

81. Dutch writers and illustrators of children's books are successful on the international as well as the domestic market. The government promotes the publication and dissemination of such books, children's juries are involved in judging children's literature competitions and children's authors visit schools. In addition, central government provides structural support for the Children's Book Museum, a semi-permanent display which is part of the national Literature Museum.

### **Protection against injurious information**

82. Young people are protected against exposure to harmful audiovisual materials by means of a system of industry classification. Since 2000, this has been operated in the Netherlands by the Dutch Institute for the Classification of Audiovisual Media (*Nederlands Instituut voor de Classificatie van Audiovisuele Media*, NICAM), an industry organisation which has reached self-regulation agreements with government.

83. Evaluation has shown that this system of co-regulation is working well. NICAM uses a system of parental guidance using symbols and pictograms to classify audiovisual materials for television, cinemas and DVD and video distribution. It also operates the PEGI (Pan European Game Information) system for computer games, and is seeking to reach similar self-regulation agreements with providers of mobile phone services.

84. Protecting young people against undesirable material on the Internet is something that can best be done at European level. NICAM participates in various forms of consultation at that level, both in the Netherlands (with the ministries of Economic Affairs and Education) and internationally (European Commission).

85. In 2005, the government appointed a temporary committee on Youth, Violence and Media to consider further measures to combat adverse media influences on young people. Following the committee's advice, NICAM will take various measures over the next few years, including the establishment of an information system on the suitability of audiovisual materials and the introduction of an extra age category (not suitable for the under-nines). It will also pay particular attention to music clips.

#### **Access to and copies of information**

86. Under the Youth Care Act, clients have a right to be given access to, and copies of, information about themselves. If the client is under the age of 12, these rights must be exercised via his/her legal representative. From the age of 12, however, the client has the right to exercise them in person and the legal representative then has no right to see the information without the child's consent. In addition, clients aged 12 or over are entitled under the Youth Care Act to request the destruction of information concerning themselves. In the case of clients under the age of 12, this request must be made via the legal representative.

#### **E. Article 14 (Freedom of thought, conscience and religion)**

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

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

89. In 2004, discussion of these and related issues in the public and political arenas led the government to issue a policy document on fundamental rights in a plural society (Parliamentary papers, House of Representatives, 29 614, no. 2). This and other events in turn prompted the Council of Europe to take up the issue and the Council is currently conducting a survey of good practice with regard to matters such as religious dress.

#### **F. Article 15 (Freedom of association)**

90. The relevant information is contained in the initial report.

### **G. Article 16 (Right to privacy)**

91. The Youth Care Act provides that information concerning a client may only be passed to third parties with the consent of the client. If the client is under the age of 12 or has reached that age but is not deemed capable of reasonably assessing his/her own interests, the consent of the legal representative is required. Without such consent, information may only be passed to persons whose professional cooperation is required in order that youth care may be accessed or provided, or that an order may be prepared or implemented, or to persons involved in youth probation.

92. It may, however, be necessary for youth care offices to cooperate with other agencies, such as the police, schools, municipalities etc, both to ensure that youth care services are effective and in the context of juvenile crime. The Youth Care Act does not constitute an impediment to such cooperation. The exchange of information between different organisations is permitted in the context of such cooperation wherever it is necessary to achieve a common purpose. However, an agency must have lawful grounds for providing the information. In the case of the youth care offices, this means either that consent has been given, or that there is a statutory obligation to provide the information, or that the aforementioned exception applies.

93. If consent is lacking and the aforementioned exception does not apply, but the social worker feels that the client's interest in withholding the information is outweighed by the importance of releasing it, a social worker with a duty of confidentiality towards the client can plead a conflict of duties or force majeure.

94. In 2004, the Ministry of Justice set up a Privacy Helpdesk to help agencies explore the potential for cooperation within the terms of the law on data protection. The Helpdesk advises agencies working in the youth policy field with regard to issues of privacy and looks for ways within the terms of the existing legislation to safeguard the right to privacy while at the same time maximising cooperation.

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

95. Among the draft legislation currently awaiting parliamentary scrutiny is a Bill which would amend the Criminal Code, the Code of Criminal Procedure and the Youth Care Act with a view to expanding the potential for influencing the behaviour of young people (Parliamentary papers, House of Representatives 2005-2006, 30 332). This Bill has already been mentioned in previous reports on the implementation of the CRC. It includes a provision making it impossible for an offender to be given a life sentence for a crime committed when s/he was aged 16 or 17. This complies with the Committee's recommendation that this possibility should be excluded. At present, under article 77b of the Criminal Code, a court can choose to try a minor for an offence committed at that age under adult criminal law. In the case of certain offences, this could mean that the court could impose a life sentence. It should be stressed, however, that this is no more than a theoretical possibility. In practice, no Dutch court has ever imposed such a sentence on a minor.

## V. FAMILY ENVIRONMENT AND ALTERNATIVE FORMS OF CARE

### General introduction

96. On 1 January 2006 there were 3.58 million children (aged 0-17) in the Netherlands, out of a total population of 16.34 million. They accounted for 22% of the population.

97. Both socially and demographically, families in the Netherlands are changing less rapidly than was expected in the 1970s and 80s. Now as then, the majority of people still choose to live in a nuclear family and this situation is unlikely to change in the near future. At first sight, family structures are characterised mainly by stability.

98. Most children (around 7 in every 8) live in a household with two parents. However, the number of one-parent families is likely to increase in future. On 1 January 2005, almost 18% of all families with children were headed by only one parent. Most of these are lone mothers, but there are an increasing number of lone father families. In future, there will also be more lone parents of non-Western extraction. The Antillean and Surinamese communities stand out in this respect: over half of all children of Antillean origin and around 40% of children of Surinamese origin are growing up in one-parent families.

99. There are various reasons for the increasing number of one-parent families. Divorce is the most important. In addition, it is increasingly common for unmarried partners to separate. For a long time, the number of divorces in the Netherlands was fairly stable, but recently it has started to rise again. More than a quarter of all marriages now end in divorce. On average, 60% of divorces involve children. This means that 35,000 children experience parental divorce each year. Another 18,000 children are involved in the break-down of non-marital partnerships. It is estimated that 25% of them will eventually lose contact with one or other of their parents.

#### A. Article 5 (Parental guidance)

100. The relevant information is contained in previous reports.

#### B. Article 18, paragraph 1 (Parents' responsibility for the upbringing and development of the child)

### Combining work and family life

101. Since 2006, workers in the Netherlands have had access to a "life course savings scheme" which allows them to save for future periods of unpaid leave on fiscally advantageous terms. The scheme does not confer a right to such leave, but helps to fund it.

102. How does it work? A worker who withdraws savings from the life course savings account receives (irrespective of the type of leave) tax relief of €185 for each year that s/he has paid into the scheme (counting from 2006). For workers who take part in the life course savings scheme and make use of the right to up to 13 weeks of unpaid parental leave, there is a right to an extra tax reduction of 50% of the statutory minimum wage for each day of leave. If both parents make use of this right and between them take full-time leave for a total of six months, they receive a maximum of €3600. This scheme makes it easier for parents to take parental leave and stay at home for a while with their young children.

103. The Work and Care Act covers all rights to leave. In 2005, the Act was amended to include a right to extended care leave. Workers can take up to six weeks of unpaid care leave a year if they have a child suffering from a life-threatening condition, or a sick partner or parent. The life course savings scheme makes it possible to manage financially during such periods. This provision for extended care leave enables workers to take time off to care for their children if they fall seriously ill.

### **C. Article 9 (Separation from parents and the right of access)**

#### **Separation from the parents in the context of a child protection order**

104. The only way that a child can be separated from its parents without their consent is on the basis of a child protection order (supervision order or divestment of parental responsibility, with or without consent). Child protection orders are imposed by the courts where they are deemed necessary in the interests of the child and where the statutory conditions are met. Now that the Youth Care Act is in force, child protection orders are implemented by the youth care offices and, in the case of refugee children and children seeking asylum, the Nidos Foundation. In addition, four nationwide organisations have been mandated to implement child protection orders on behalf of the youth care office and under its responsibility.

105. In 2004, the Dutch government took the initiative to improve the law on child protection and its implementation through the policy programme “Better Protected” (“*Beter Beschermd*”).

The improvements set out below are being made.

#### **(a) Amendment of the legislation on child protection**

106. In June 2006, a working group published an advisory report on ways to improve the legislation on child protection orders. The report will provide the guidelines for the drafting of new legislation. It is intended that the Bill should be submitted to the House of Representatives in 2007.

107. The report made a number of basic recommendations. First and foremost, the interests of the child and its development should be taken as the starting point. Secondly, the grounds for child protection orders (supervision orders or divestment of parental responsibility, with or without consent) should be modified to ensure greater coherence between supervision orders and divestment of parental responsibility. Thirdly, the legal status of the interested parties, including foster parents, should be improved. And finally, that the new legislation should lay down how, and by whom, the implementation of child protection orders should be supervised.

108. In parallel with the Bill’s passage through parliament, preparations will be made with regard to implementation so that aspects of the recommendations that can be followed up within the existing legislation can be implemented immediately. The other changes can then be implemented without delay if they receive parliamentary approval.

**(b) Development of new procedures for the implementation of child protection orders**

109. New procedures are being developed and introduced both for the implementation of supervision orders and for the provision of guardianship services by the youth care offices, the Nidos Foundation and the nationwide organisations following an order divesting the parents of responsibility.

110. In the case of supervision orders, the emphasis is on strengthening the parents' skills in relation to the upbringing of the child. A supervision order is a temporary measure which is rescinded:

- As soon as the barriers to the development of the child which gave rise to the order have been removed, or
- The parents consent to the help needed to remove those barriers

111. Where a supervision order has been imposed, the child will normally continue to live with his/her parents. The support and counselling given to the parents must be directed at enabling them to reassume responsibility for the upbringing of their child. If necessary, however, the child can be placed under a care order. Where it is not in the interests of the child that s/he should return to the parents, attempts will be made to obtain the parents' consent for long-term placement of the child in a foster family or residential institution. The placement can then continue on a voluntary basis.

112. In the case of divestment of parental responsibility, the child will no longer live with the parents. However, the parents retain the right to keep in touch with their child. The youth care offices, the Nidos Foundation and the nationwide organisations which provide guardianship services have a duty to draw up a case plan. In the procedures to be developed for the implementation of guardianships, there will be a particular focus on this aspect of their responsibilities.

**(c) Improving coordination in the system**

113. New norms are being developed to shorten the time between:

- The reporting of a situation in which protection is required
- The investigation of the report and, where necessary, the submission of an application by the Child Protection Board for a child protection order
- The consideration of the application by the court, and
- The implementation of the child protection order by a youth care agency

114. This will ensure that, in cases where the development of a child is under threat and the parents are not prepared to seek help, the necessary help can be provided more quickly.

### **Legislation on the promotion of shared parenting and responsible divorce/termination of registered partnership**

115. The Dutch government feels that it is extremely important for the development of children that they should continue to have lasting contact with both parents following divorce or termination of a registered partnership and that the parents should continue to feel a shared responsibility for the child's care, upbringing and development. This is the basic philosophy underlying the draft legislation on the promotion of shared parenting and responsible divorce/termination of registered partnership. (Parliamentary papers, House of Representatives, 30145), which was submitted to the House on 9 June 2005.

116. There is an increasing recognition among couples that good agreements need to be reached prior to divorce. This is shown, for example, by the steady increase in the number of joint applications for divorce. In 2003, 52.1% of all divorce applications were made jointly (figures from Statistics Netherlands). If the number of terminations of registered partnerships which were originally marriages is included in the figure, the percentage is even higher. Another important point is that in 92% of divorces involving children, the parents continue to exercise parental responsibility jointly (2003 figure). In 1997, the year preceding the change in the law making joint parental responsibility following divorce the norm, the figure was only 34%. These are hopeful trends. The aim of the new Bill is to reinforce these trends and, by doing so, to reduce the problems surrounding divorce or termination of a registered partnership and subsequent parental access. The proposals are designed to ensure that parents consider parenting arrangements in advance of splitting up and make firm agreements on the subject so that unnecessary conflict can be avoided at a later stage. To try to ensure that parents give careful advance consideration to the consequences of their separation for the children and reach firm and verifiable agreements on this, the Bill provides that parents must include a "parenting plan" in their application for divorce or termination of their registered partnership.

117. The parenting plan must, as a basic minimum, include agreements on:

- (a) How the parents propose to share the care and upbringing of the child or what rights and obligations are to surround access to the child;
- (b) How the parents are to inform and consult each other in relation to important issues relating to the wellbeing and financial assets of children under the age of 18;
- (c) The costs of caring for and bringing up children under the age of 18 (child support).

118. In addition, the Bill includes two explicit norms for parental responsibility. Firstly, it provides that, in addition to the right and duty to bring up and care for children below the age of 18, parental responsibility should also include an obligation on the parent to promote the development of the child's relationship with the other parent. This is accompanied by an obligation on a parent who does not exercise parental responsibility to keep in touch with the child. The Bill is currently awaiting parliamentary scrutiny.

### **Guardian ad litem**

119. In the course of divorce proceedings, a child may become the object of a dispute between the parents. To improve the position of the child in the proceedings, the Bill would make it easier to appoint a guardian ad litem. Any court would have the power to appoint a guardian ad litem in any case directly involving a minor. During divorce proceedings, the guardian ad litem could help the parents draft a parenting plan by representing the interests of the child in relation to it. After all, when parents are embroiled in conflict over various aspects of the divorce, it is all too easy for them to lose sight of the best interests of the children. Equally, the guardian ad litem would be able to help the child discuss the parenting plan with his/her parents, assuming of course that s/he is old and mentally mature enough to do so. Finally, the guardian ad litem would be able to help the child apply to the court on his own account for a ruling concerning the exercise of parental responsibility or apply for responsibility to rest solely with the father or the mother.

### **Divorce and access mediation**

120. The results of the experiments with divorce and access mediation mentioned in the previous periodic report show that mediation is more effective than the usual procedure both at achieving amicable divorces and at resolving conflicts about access to children. Over the next few years, government intends to take a number of measures to promote the use of these forms of mediation. It will do so both by educating the public and by encouraging the courts and the Legal Aid and Advice Centres to refer individual cases for mediation.

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

121. A new policy has recently been introduced concerning the admission of foreign minors wishing to join one or both of their biological or legal parents, who is/are legally resident in the Netherlands. To be eligible for family reunification, the minor must satisfy a number of requirements, including the statutory criterion that s/he is actually a member of the family of the person(s) with whom s/he wishes to be reunited. In the new policy, the interpretation of the statutory criterion is more closely aligned to the concept of “family life” in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

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

### **E. Article 27, paragraph 4 (Recovery of child maintenance)**

123. The relevant information is contained in previous reports.

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

124. For developments in foster and residential care, see Art. 18, para. 2.

**G. Article 21 (Intercountry adoption)**

125. The Ministry of Justice is constantly on watch for any lack of integrity or due care in intercountry adoptions. Its supervision is based on the requirements and safeguards imposed by the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and includes annual scrutiny of the system by the Youth Care Inspectorate.

126. A survey of bodies licensed to put prospective adoptive parents in touch with overseas bodies offering children for adoption has recently been carried out by this inspectorate. In view of the results, the procedures for matching prospective adoptive parents to children offered for adoption are now being improved. For example, the screening of prospective adoptive parents is being placed exclusively in the hands of specialist agencies of the Child Protection Board. In addition, to prevent possible financial gain, agreements have been reached with the licensed adoption agencies mentioned above concerning the imposition of government-supervised standards for their financial reserves.

127. In order to improve supervision of the overseas adoption system and prevent abuses, draft legislation has been put forward providing that each licensed adoption agency should be allowed to operate in a particular country only if specifically authorised by the Minister of Justice to do so. The draft legislation also provides for the procedure for the adoption of brothers and sisters from a single family to be simplified, while still maintaining all the necessary safeguards.

128. Because evaluation has produced evidence of dissatisfaction with the aftercare received by parents of adopted children, an improved system is now being developed, following the recent developments in the youth care system, to guarantee adopted children and their adoptive parents the specialist (including psychosocial) support they need.

129. A new Adoption (Conflict of Laws) Act entered into force on 1 January 2004. The new Act contains conflict of law rules regarding adoption but in no way affects the application of the 1993 Convention on intercountry adoption or Dutch legislation in this area. The basic principle of the new Act is that Dutch law applies to any adoption that takes place via the Dutch courts. The only exception is that the national law of the child's country of origin applies where the consent of (or consultation with) the original parents and/or third parties is concerned.

130. Adoptions via the Dutch courts follow Dutch law as regards family-law relationships between the adoptive parents and the child and the severance of family-law relationships between the child and his/her natural parents. The Adoption (Conflict of Laws) Act also contains provisions on the recognition of overseas adoptions not covered by the 1993 Convention. Furthermore, the Act makes it possible to convert a "weak" overseas adoption that has taken place via a foreign court and been recognised in the Netherlands into a "strong" adoption under Dutch law.

131. The passing of the Adoption (Conflict of Laws) Act has led to an amendment of the Netherlands Nationality Act: any child adopted overseas via an adoption that does not yet come under the 1993 Convention but is recognised in the Netherlands now becomes a Dutch national provided that at least one of the adoptive parents holds Dutch nationality.

### Figures on intercountry adoptions

#### Children adopted by Dutch families

Year	2003	2004	2005
Number of children	1 154	1 307	1 185

### H. Article 11 (International child abduction)

132. In recent years, a number of measures have been taken in the Netherlands to prevent international child abduction and to deal with it effectively when it occurs.

#### Revised Brussels II Regulation

133. The Revised Brussels II Regulation entered into force on 1 March 2005. A key aim of the Regulation is to improve cooperation between EC Member States in the field of child protection and international child abduction. The Regulation also covers matters relating to parental responsibility. Most of the provisions in the Regulation are designed directly or indirectly to improve the position of children.

134. The Regulation contains rules intended to simplify proceedings between parents (concerning their minor children) and rules guaranteeing contact between children and non-custodial parents. Consequently it is now easier for parents to make cross-border access arrangements (without incurring the costs of legal counsel) or have existing arrangements modified to take account of the new international situation. If the custodial parent moves with the child to another EC Member State, the parent left behind has three months to apply to his/her local court for an appropriate adjustment of access rights. This is an improvement on the previous situation, in which the non-custodial parent always had to travel to the child's new country of residence in order to initiate judicial proceedings in the child's place of abode. Good access rights may reduce the risk of international child abduction, since research by the Research and Documentation Centre of the Dutch Ministry of Justice (*Wetenschappelijk Onderzoek en Documentatie Centrum*, WODC) has produced evidence that problems concerning access are one cause of international child abduction. The WODC research report is discussed below.

135. In July 2005, as part of the implementation of the Revised Brussels II Regulation, liaison judges were designated at The Hague district court for international child protection cases. The same court also has a specialist legal support unit for the liaison judges. The liaison judges act as a contact point for courts involved in international family law cases. Their remit includes facilitating contacts between Dutch courts dealing with actual cases under the Hague Convention on the Civil Aspects of International Child Abduction, the Revised Brussels II Regulation or the

Dutch International Child Protection Implementation Act<sup>1</sup> and courts in other countries (or vice versa), so that cross-border consultation can lead to a decision that can be regarded as being in the best interests of the child. The liaison judges are also the initial contact point for the Dutch Central Authority and can act as a clearing house for any notifications of decisions by foreign courts in the context of the Revised Brussels II Regulation.

### **WODC report**

136. On 22 September 2002, two Dutch NGOs (*Stichting Defence for Children International* and *Stichting Gestolen kinderen*) published a report on the international child abduction situation in the Netherlands. This, among other things, prompted the WODC to undertake a study of factors favouring or preventing the legal resolution of international child abduction cases. The study was conducted in 2005 and the findings were published in January 2006.

137. The report examines the causes and motives underlying international child abduction, the issue of prevention, the ways in which incoming and outgoing child abduction cases are handled in practice (out-of-court settlements and mediation, contact between the child and the other parent, speed of disposal), the welfare of the child following repatriation, and provision of information. It finds, among other things, dissatisfaction with information provision and communication, in particular by the Central Authority. One of its recommendations is that the Central Authority should explain its procedures more clearly to parents and bodies involved in child abduction cases and should improve its information provision. This recommendation has led to the establishment of the Dutch International Child Abduction Centre.

### **Dutch International Child Abduction Centre**

138. The Dutch International Child Abduction Centre opened on 1 June 2006. It provides information and know-how for parents and professionals (including lawyers) involved in child abduction cases, or who may become involved in such cases in future ([www.kinderontvoering.org](http://www.kinderontvoering.org)). Such support may help to prevent international child abduction or, where it occurs, help parents to reach a swifter resolution (something which is in the best interests of the child). The Centre also refers parents to lawyers, mediators and social workers, so that they can seek an amicable solution in the best interests of the child. The Centre is an independent organisation and acts at its own discretion. The Minister of Justice has not transferred any responsibility to it, but remains personally responsible for the tasks imposed on the Central Authority by the Hague Convention on the Civil Aspects of International Child Abduction. The Centre is subsidised by the Ministry of Justice.

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<sup>1</sup> Act of 16 February 2006 in implementation of the Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children and of Council Regulation (EC) No. 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility, repealing Regulation (EC) No. 1347/2000 (OJ EU L 338), and amending the Dutch Civil Code, Dutch Code of Civil Procedure and EC Regulation Implementation Act (Bulletin of Acts and Decrees 2006, 123). Entry into force: 1 May 2006.

### Developments regarding countries not party to the Convention

139. The Hague Conference on Private International Law has been trying for some years to find ways of combating problems which tend to arise in relation to the return of children abducted from the Netherlands to countries which are not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. These countries include, most notably, a number around the Mediterranean. In 2004 and 2006, two conferences of judges were held in Malta. The second concluded that there are ways to persuade the countries concerned of the need to observe a uniform set of basic rules concerning jurisdiction and the recognition of judicial decisions concerning parental responsibility and access rights. If this proves possible in practice, it will eliminate a very major obstacle to the resolution of child abduction cases and, at the same time, offer the prospect of the ratification of the 1996 Hague Convention on the protection of children by the countries concerned. Morocco is already a party to that Convention. As yet, the Netherlands and most other Member States of the European Union are not. A dispute between Spain and the United Kingdom over Gibraltar has blocked decision-making on collective ratification in Brussels.

140. Following the Malta conferences, the Netherlands has established bilateral contacts with a number of countries particularly relevant to Dutch cases. For example, a Dutch delegation is to pay a visit to the Egyptian judiciary to see whether cooperation can be improved in actual cases. The Netherlands already holds regular official-level talks with Morocco, including discussion of the potential for joint action in accordance with the principles of the 1996 Hague Convention. Morocco is not yet a party to the Hague Convention on child abduction, but said some years ago that it intended to be so in future. Pressure has been put on Morocco to take action on this.

### Figures on international child abduction

Year	2002	2003	2004	2005
Number of cases	91	96	105	113

#### I. Article 19 (Domestic violence, sexual abuse and neglect)

141. Committee recommendation 44a has now been implemented. During the 2002-2006 period, the issue of child abuse was high on the political agenda. On 1 June 2003, a broad definition of child abuse (including psychological as well as physical harm) was enshrined in the Youth Services Act. The same definition has been incorporated in the Youth Care Act, which entered into force on 1 January 2005. This new Act has also provided a statutory basis for the Advice and Reporting Centres for Child Abuse and Neglect (*Advies - en Meldpunten Kindermishandeling*, AMKs) and regional publicity campaigns have been run to make the public aware of the existence of the AMKs and how to report cases to them.

142. Now that the Youth Care Act is in force, the provinces and three metropolitan areas (Amsterdam, Rotterdam and The Hague) are responsible for maintaining the youth care offices of which the AMKs are part and for care provision for all young people in their areas. This includes care for the victims of child abuse. The philosophy is that care should be provided without delay and should be strictly needs-based: action should be as hands-off as possible but incisive (care order) where necessary in the interests of the child.

143. The AMKs and the care services are important, but in fact only relevant when it is already too late. The main emphasis of government policy is therefore on measures to prevent child abuse occurring. A major aspect of this is the provision of parenting support for families who request and need it. But not only for them. The authorities and care services must not sit on their hands if parents refuse support that is in the interests of the child. For the 2004-2007 period, the government has therefore earmarked extra resources (€34.5 million) for the identification and support of families at risk. Greater public acceptance of the need for parenting support is also important. Child-rearing is not easy, especially where the parents are struggling in other respects.

#### **Bill banning parental violence**

144. The Minister of Justice has taken various legislative measures in fulfilment of Committee recommendation 44d. On 28 September 2005, he submitted a bill to the House of Representatives banning parental violence in the care and upbringing of children. The bill has now completed its passage through the House and is before the Senate.

145. The new law should help prevent child abuse and prohibits all forms of violence in child-rearing. Besides corporal punishment, it also covers psychological abuse and degrading treatment. The bill amends Article 247 of the Civil Code, which defines the rights and obligations of parents. In addition, of course, child abuse is - and will remain - an offence under the Criminal Code.

#### **Bill on restraining orders in cases of domestic child abuse**

146. In August 2006, the Minister of Justice and the acting Minister of the Interior and Kingdom Relations submitted a bill to parliament that would make it possible to impose a restraining order on anyone posing a threat of domestic violence. Under the order, the person concerned would not be permitted to enter his/her home for a specified period - normally ten days - or to have contact with other occupants, such as his/her spouse, partner or children in the household. The effect would therefore be to protect those people. The parties consulted on the drafting of the bill all, without exception, advocated its extension to include cases of actual or imminent child abuse. So the bill creates the possibility of imposing such restraining orders against persons perpetrating child abuse or suspected of doing so. This will add to the arsenal of statutory measures that can be taken in cases of child abuse, which have until now been limited to the imposition of child protection orders (including care orders involving the removal of the child from the parental home). The mayor will be able to impose a restraining order following consultation with the Advice and Reporting Centre for Child Abuse and Neglect. The imposition of the restraining order should be preceded by careful consideration of what is in the best interests of the child and how the safety of the child can best be guaranteed. In principle, no restraining order can be imposed where children would then be left to fend for themselves in the family home.

## **Completion of National Action Plan against Sexual Abuse of Children**

147. The National Action Plan against Sexual Abuse of Children (*Nationaal Actieplan aanpak seksueel misbruik van kinderen*, NAPS) was intended to improve policy coherence and cooperation between the institutions involved in this area. The activities set out in the plan were designed to improve victim support, reduce recidivism and increase professionalism. At the end of 2002, the Minister of Justice submitted the final report on the results of the NAPS to the House of Representatives.

148. Much has been achieved, but further action is still required. For this reason, the approach instituted by the action plan has now been incorporated into mainstream prevention and youth care policy and into the strategies for dealing with child abuse and domestic violence. The Minister of Justice is also looking at new areas of life in which the sexual abuse boundary can be easily overstepped. The end of 2006 will see the completion of a study of new forms of sexual behaviour among young people, such as chatting, instant messaging and other means of “sexually charged communication” via mobile phones and the Internet. By engaging in such activities, young people make themselves extremely vulnerable and the situation can lead to abuse, adolescents engaging in sex for payment, sex parties given by and for young people and boys - primarily of Moroccan descent - being sexually abused and ending up in prostitution. The study is looking at whether behaviour of this nature can be described as voluntary and whether it can lead to prostitution.

### **Child abuse reporting code**

#### *Implementation*

149. During the 2004-2006 period, the Ministry of Health, Welfare and Sport has worked on the introduction of a child abuse reporting code for professionals in the organised childcare, education and child healthcare sectors. The code serves as the basis for institutional protocols on the procedures to be followed by such professionals in cases of suspected child abuse.

150. Extensive consultations have been held with various sectoral organisations and there is now wide support for the use of a reporting code. Information on the reporting code and its use has been published in professional journals and newsletters and on websites, and various workshops and talks have been given. To conclude this implementation process in the relevant sectors, current use of the reporting code was surveyed in January 2006. The results showed that use in the education sector is as yet below-target, but that the majority of institutions in the child healthcare and organised childcare sectors are now using it.

151. A number of specific follow-up activities have therefore been undertaken to encourage use of a reporting code in education. For example, all internal counsellors and school heads in the primary and secondary school system have been sent copies of a booklet underlining the importance of using a reporting code.

152. Better use can also be made of the support structures in and around schools. The use of a reporting code and the need to discuss signs of child abuse should be on their agenda too.

153. In child health care, measures are in place to ensure use of a code. Use of the “child abuse standard” (the reporting code for the child healthcare services) is now on the assessment checklist of the Health Care Inspectorate, making it obligatory for all healthcare institutions.

154. In the organised childcare sector, alertness to child abuse and carefully considered, effective procedures where it is suspected are assured by HKZ certification of childcare providers. To obtain certification, providers must maintain certain procedures for dealing with cases of suspected child abuse. At the time of writing, around one-third of all providers in the sector are certified. In addition, employers in the sector are working with parents to update the voluntary agreement on the quality of organised childcare, which obliges all childcare organisations to use a reporting code for child abuse which lays down a clear procedure to be followed in cases of actual or suspected child abuse and/or sexual abuse.

#### *Legislation*

155. The introduction of the reporting code in the sectors specified above is a major advance, but its use can be further extended. Measures also need to be taken to ensure that the reporting code continues to be used in the future. The government intends to introduce a statutory obligation to use the reporting code.

#### *Breach of professional confidentiality*

156. Professional confidentiality is also a factor in decisions taken by professionals on whether to report child abuse. Since 2003 the law has provided that medical and other professional confidentiality can be breached wherever this is necessary to end child abuse or to investigate a situation in which there is a reasonable suspicion of child abuse.

#### *Duty of care providers to report child abuse*

157. Since 2003, all care providers have a statutory duty to report to an AMK any case of past or present child abuse committed by a member of staff that comes to their attention.

#### *RAAK regions*

158. In 2003, the RAAK approach was initiated in four regions. RAAK is the Dutch acronym for “child abuse reflection and action group”. The approach is being funded by the Ministry of Health, Welfare and Sport. Its aim is to develop a comprehensive strategy for tackling child abuse that will eventually include parenting support services, a system for identifying child abuse and adequate means of dealing with it. In 2006 the main focus of activity was on structural integration of the approach via training and knowledge transfer. A handbook laying out the necessary enabling conditions and offering concrete examples is expected to appear in early 2007. The government decision on whether to roll out the approach nationwide will not be taken until the final results of its pilot use in these four regions are available. Information on good practice and promising activities are being disseminated via websites and newsletters, and conferences are being held on a regular basis.

*Research on the extent of child abuse*

159. No empirical research has ever been done to establish the extent of child abuse in the Netherlands. Estimates have always been based on data from other countries. In order to gain a more accurate understanding of the number of children suffering abuse, the types of abuse occurring, the identity of the victims and perpetrators, and the situations in which child abuse occurs, the Ministry of Health, Welfare and Sport and the Ministry of Justice are now jointly funding research into the prevalence of child abuse in the Netherlands. The results are expected at the end of 2006. Based on the outcome of the research, the two ministries will then consider whether further policy initiatives are required and, if so, what form they should take.

*Domestic Violence Strategy Programme*

160. An estimated 100,000 children witness domestic violence in the Netherlands each year. Some of them need intensive long-term help to recover from the experience, but their needs are not always recognised. To improve this situation, some regions have now set up “Kindsporen”: agreements between the police, Public Prosecution Service, youth care office, AMKs and sometimes other general or youth care agencies establishing the procedures to be followed where children have witnessed domestic violence. The Ministry of Justice and Ministry of Health, Welfare and Sport have jointly commissioned a survey of best practices and practical guidance, which is to be published at the end of 2006 and is intended to provide further encouragement for the development of “Kindsporen”.

161. In 2007 a nationwide publicity campaign will be launched to spread the message that domestic violence is unacceptable. This will be targeted at a number of groups, including children.

*Problems*

162. Since the AMKs were placed on a statutory footing, there has been a steep rise in the number of reports of child abuse. In 2002 only 25,374 cases were reported to the AMKs but by 2005 the number had risen to 38,052: an increase of around 50%.

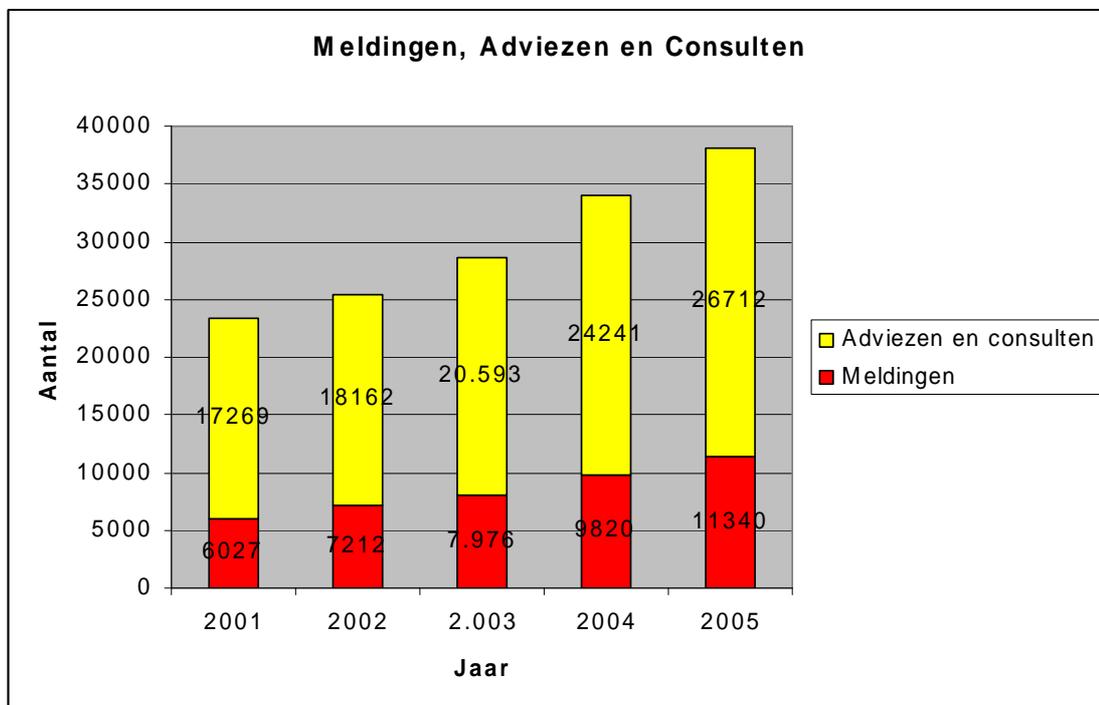
163. The improved level of reporting is welcome, because child abuse should be reported whenever possible (if not always). However, the increase in the number of reported cases has resulted in much longer waiting lists at the AMKs, especially in 2004 (the year that saw the greatest growth). The reason for this was that the AMKs were funded on the basis of past budgets and resources for additional manpower to cope with the increase in reporting followed growth rather than anticipating it.

164. The Dutch public has also been shocked by a number of cases in which children have actually died as a result of extreme abuse.

165. Central and provincial government have invested heavily, especially in 2005, in order to cut the waiting lists at the AMKs. This has been successful in around half of the provinces and lists are also shrinking in the others. Following an initial growth in 2005, waiting lists were halved in the first three months of 2006. However, the situation is not yet stable and for this

reason central government has earmarked extra resources to deal with the growing number of reported cases in 2007. In addition, a nationwide pool of professionals has been created in order to deal flexibly with waiting lists at the AMKs wherever they may occur.

### Reports/requests for advice reaching AMKs



Source: NIZW.

**Translation for graph:**

**Heading:** Reports, Requests for Advice, Consultations

**Vertical:** Number

**Light shaded:** Requests for advice and consultations

**Dark shaded:** Reported cases

**Horizontal:** Year

## VI. BASIC HEALTH AND WELFARE

### A. Article 23 (Disabled children)

166. In the previous report we wrote that, generally speaking, Dutch policy on disabled children is much the same as policy on adults with disabilities, with specific facilities being provided or measures taken for disabled children only when necessary. This is still the case. But there has

been one important change. Government now assesses in advance whether general policy measures are likely unintentionally to exclude disabled people and, if so, how this can be prevented. Only then is general policy translated into specific provision or measures.

167. The decision to pursue this kind of “inclusive policy” is based on principles of equal treatment and the implementation of human rights. The aim is no longer to “gloss over” the disabilities of the children concerned; the differences between children are now openly acknowledged. This means that equal participation is no longer simply the aim of policy, but its actual starting point. In fact, we no longer seek to compensate for the deficiencies of society, but rather to gear society to allowing children with disabilities to function properly within it. Whereas the previous report stated that children with disabilities should be given opportunities to develop their talents, the aim now is to organise society with these children in mind.

168. The Netherlands has only recently made this policy switch and its impact is not yet directly apparent in every area. But the change certainly means that every part of the Convention on the Rights of the Child now applies equally to children with disabilities.

169. The decision to pursue “inclusive policies” was not made overnight. It was the outcome of a lengthy process. In the educational field, in particular, the aim has been to integrate disabled children into mainstream education for some years.

170. On the other hand, too many people still feel that disabled children should grow up in a separate world. Schools and parents sometimes find it difficult to accept their presence in mainstream education. These attitudes are a barrier to the integration of special education into the mainstream system.

171. In 2004, the government set up a Disability and Society Task Force (*Taskforce Handicap en Samenleving*) to raise public awareness and increase automatic public acceptance of people with disabilities. The task force was initially appointed for three years and recently extended for another year. It fulfils the Committee’s recommendations in this area. The position of young people with disabilities is one of the priority areas to be addressed by the task force in 2006 and 2007.

### **Funding of pressure groups**

172. Government subsidies for organisations representing the interests of people with disabilities, including parents’ associations representing the interests of disabled children, are supplied via a special fund for patient groups, disabled organisations and the elderly (*Patiënten Gehandicapt en Ouderen*, PGO Fund). The subsidies are intended to strengthen the position of disabled people in the privatised health care sector and to promote peer group contact, the spread of information and the interests of the disabled.

### **Schooling for children in need of extra educational support**

173. Primary and secondary education includes various systems for the provision of extra educational support for children who need it on a temporary or permanent basis. This special needs provision is locally based for children experiencing “slight” difficulties and organised on a national basis for those with more serious disabilities or disorders.

### **Going to School Together**

174. Under the Going to School Together scheme, primary schools are grouped into consortia designed to provide the right kind of education for all the children attending them. Each consortium has a special needs budget that schools can use for children in need of extra educational support. In addition, each consortium includes at least one “special school” - a school which receives extra funding and has smaller classes so that it can provide more help for children who need it (sometimes only temporarily). Special schools also act as sources of specialist support and advice for the other schools in their consortia.

### **Secondary education consortia**

175. Secondary schools (apart from the two most academic types) are likewise grouped together in consortia designed to provide the right kind of education for all the children attending them. As in the primary sector, each consortium has a special needs budget that schools can use for children in need of extra educational support. The consortium also arranges practical training and provides learning support and hands-on education for those who need it.

### **Special primary and secondary education and the personal budget system**

176. Pupils with a serious disability, illness or disorder can attend either a special (primary or secondary) school or, if the parents prefer it, a mainstream school. In the latter case, the pupil is allocated extra funding for special needs support. This is known as the personal budget funding system. The money goes directly to the school to help it tailor the education it provides to the pupil’s special needs. A child can attend a special school or receive a personal budget only if it is judged by an independent committee, on the basis of nationally established criteria, to be entitled to such provision. Around 60,000 children in the Netherlands attend special schools and approximately 20,000 have a personal budget.

177. On 1 January 2006, the personal budget system was extended to include secondary vocational education. This enables pupils with a special needs assessment to attend such vocational colleges with extra support and counselling from a care institution and peripatetic support from a special school. This improves access to secondary vocational education and enables special needs pupils to make a smooth transition from secondary school to secondary vocational education.

178. Special schools for primary and secondary education are of ten types, arranged in four clusters:

- Schools for visually impaired children, or children with multiple disabilities including a visual impairment (cluster 1)
- Schools for deaf children, hearing-impaired children and children with severe speech defects, or children with multiple disabilities and one or other of these disabilities (cluster 2)

- Schools for physically disabled children, children with severe learning difficulties and chronically sick children with a physical disability, or children with multiple disabilities including one or other of these disabilities (cluster 3)
- Schools for severely maladjusted children, chronically sick children with no physical disability and special schools attached to paedological institutes (cluster 4)

179. Schools within the same cluster work together at regional level in a Regional Expertise Centre.

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

### **Preventive health care for children and young people**

180. The Netherlands has an extensive system of health care provision. Everyone below the age of 19 is offered preventive health care designed to give early warning of deviations from the normal pattern of physical, mental, cognitive and social development.

181. There is a fixed programme of preventive health care for the under-19s. All children are examined on at least twenty occasions (mainly concentrated in the first few years of life) to ensure that they are developing normally in six different respects. This service is provided locally by Municipal Health Services and baby and toddler clinics and the vast majority of children receive such preventive care: take-up is more than 95% in the first few years of life, dropping to around 80% later.

182. Youth health care is a joint responsibility of central government and the municipalities. Central government establishes the programme nationwide and promotes high quality implementation. The municipality commissions its implementation, supplements the nationwide programme with activities of specific local relevance and manages the interface with local youth policies.

183. The nationwide health prevention policy framework includes a number of specific objectives in the case of young people. These include reducing the rate of childhood morbidity (in particular asthma and diabetes) and improving children's lifestyles in order to reduce the incidence of disease in later life. The main priorities are to reduce smoking, obesity, drug use, sexually transmitted diseases and the rate of teenage pregnancy and abortion.

### **Environmental health**

184. Environmental health impacts are often greatest and most prolonged in the case of children.<sup>2</sup> For example, asthma and allergies, or cancer or cardiovascular disease in later life, can all be due to childhood exposure. Where children grow up determines their exposure to harmful environmental factors and also their opportunities for developing a healthy lifestyle. That is why the environment in which children grow up needs to be protected. In general the Netherlands is fairly good at protecting the environment, but a survey conducted by the National Institute of

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<sup>2</sup> Children's health and environment: a review of evidence (WHO-Europe/EEA, 2002).

Public Health and the Environment (*Rijksinstituut voor de Volksgezondheid en Milieuhygiëne, RIVM*) shows that the country could do better both in protecting children against negative environmental impacts and in ensuring that children's surroundings actively promote health. To this end, the Youth Environment and Health Action Plan has now been drawn up. This policy plan is based on European agreements and aimed at providing children with better protection against possible harmful effects of factors in their local environment. It was initiated under the national Health and Environment Action Plan 2002-2006, which concerns - among other things - healthy indoor environments (in homes and schools) and the quality of the local living environment. Following the evaluation of this action plan, special attention is now being paid to the situation of children in these respects.

### **Trend monitoring**

185. The youth healthcare services monitor children's development and record the results. The resulting data is also used to monitor general trends. From 2008, the data will be fed into an electronic database providing easy access to information on the changing health status of children in the Netherlands. This can then be used to adjust programmes and policies.

### **Access for ethnic minorities**

186. Ethnic minorities, asylum seekers and illegal immigrants have good access to youth healthcare services. Ethnic minorities make just as much use of them as the indigenous population. For asylum seekers and illegal immigrants, however, the situation is different: in their case, use is rather patchy.

### **Genital mutilation (female circumcision)**

187. The government aims to put an end to female genital mutilation (FGM). Regarded as a serious and unacceptable form of child abuse, FGM is equated with assault and therefore a criminal offence in the Netherlands. Where the act is committed outside the Netherlands by a person holding Dutch nationality or by a foreign national habitually or permanently resident in the Netherlands, the Dutch courts have jurisdiction. Since 1 February 2006, it has no longer been subject to the dual criminality requirement (arts. 5 and 5a of the Criminal Code) and legislation is now being prepared providing that the limitation period for this form of abuse will only start running from the moment victims turn 18.

188. The government has requested the Council for Public Health and Care (*Raad voor de Volksgezondheid en Zorg, RVZ*) to report on effective ways of combating FGM and has adopted many of the recommendations made in the Council's subsequent 2005 report. These include improved identification of cases, the preventive role of the youth health care services, targeted public information, action to identify at-risk children, and better training of relevant professionals. Twelve new measures are to be taken.

189. The most important measure is an intensive campaign in six regions where the rate of FGM is expected to be highest: Amsterdam, Tilburg, Rotterdam, The Hague, Eindhoven and Utrecht. The Minister of Health, Welfare and Sport has given these regions funding for an

intensive campaign, to be conducted mainly by the local Municipal Health Services. Action is to be tailored to the specific locality: every community is different and the services are expected to analyse needs at local level. FGM is a culturally and religiously determined problem and action to change behaviour in this respect is likely to take some considerable time.

190. Regions are to report on progress annually to the Ministry and are to involve self help organisations (organised groups of minorities) in their campaigns. Regions other than the six already mentioned are also to take action, but must pay for this out of existing resources. They will be assisted by the Pharos organisation, which advises on health care for refugees and asylum seekers.

### **Health and nutrition**

191. In 2002 government resources were used to launch a planned five-year campaign by the Netherlands Nutrition Centre to encourage breastfeeding. The campaign (costing an average of €300,000 a year) focuses on the healthcare services, public attitudes and support, the mothers themselves, and government policy.

192. A survey conducted in 2005 revealed an upward trend in breastfeeding in the Netherlands. The proportion of babies exclusively breastfed during the first six months of life has risen from 18 to 25%. The proportion of mothers who initially breastfeed is 79% but this declines sharply to 54% offering exclusive breastfeeding after one month and 35% doing so after three months.

193. Ideally, six months exclusive breastfeeding confers the most health benefits. However, the health benefits of persuading more women to breastfeed from birth are greater than those of extending the period of breastfeeding from, say, three to six months. For this reason, the new government target is to increase the proportion of mothers breastfeeding from birth to 85% in 2010. The Nutrition Centre's new campaign for 2007-2010 is aimed at achieving this figure.

194. The Netherlands supports the introduction of the Baby Friendly Hospital Initiative in hospitals, post-natal care organisations, midwifery practices and youth healthcare services. More than half of all neonates now receive certified care (meeting set standards).

195. A revised version of the bulletin advising healthcare workers on the nutrition of children aged 0-4 years is being published at the end of 2006. Support for breastfeeding is an important element of the advice. The bulletin advises that breastfed babies should be given a vitamin K supplement during the first three months of life and that children up to the age of four years should be given a vitamin D supplement to ensure good bone development. The Health Care Inspectorate has been involved in the drafting of the bulletin.

196. A new, innovative public education campaign on healthy nutrition and other aspects of parenting started at the end of 2006. Conducted via the internet, it is called "Hello World". Every child born in the Netherlands will be officially welcomed. The aim is to offer systematic help to lay the foundations of a healthy life even while the baby is still in the womb and during the first years of its life. This should reduce the risk of the child suffering from chronic disease and/or obesity in later life. The project involves cooperation by a large number of parties, national and local, in both the public and the private sector.

197. The Netherlands is also keen to ensure that children (aged 4-12) and young people (aged 12-18) eat a healthy diet that will reduce the risk of chronic disease and obesity in later life. For example, central government is providing support for a project ensuring that primary school children learn about fresh fruit and vegetables and experience eating them in the classroom. Central government is also co-promoting a project encouraging secondary schools to provide “healthy options” in their canteens.

198. It is not easy to change the behaviour of children and young people. Many factors are involved. In 2006 an action plan on obesity was launched, resulting from a voluntary agreement on obesity which the government concluded in 2005 with the food industry, hospitality sector, catering industry, the supermarkets, healthcare insurance companies, employers and organised sport sector. The aim is to tackle obesity in a coherent and effective way by encouraging people to eat a healthy diet and take sufficient exercise.

Some of the projects mentioned above are part of this action plan.

### **HIV/AIDS**

199. The Committee recommended the Netherlands to take all necessary measures to reduce mother-to-child transmission of HIV/AIDS. In 2004, partly in response to this recommendation, the Netherlands introduced universal HIV testing of pregnant women with the aim of providing pre and post-natal treatment to prevent the transmission of the virus.

200. Over the last few years, testing for sexually transmitted diseases (STDs) has been strongly encouraged. Various campaigns have been run and action has been taken to step up supplementary curative action by municipal STD clinics (that is, supplementary to the treatment available from general practitioners). At-risk groups (including teenagers) are being actively and specifically targeted.

201. For schoolchildren, there are specific teaching packs designed to serve as a basis for discussion of sexuality, STD prevention, unwanted pregnancy and (unnecessary?) violence.

### **National Vaccination Programme**

202. In response to the Committee’s recommendation, the Netherlands is taking all necessary measures, in cooperation with parents and religious leaders, to ensure universal vaccination of children. Although the take-up rate is lower in municipalities with large concentrations of people who object to vaccination on religious grounds, it is high nationwide and has risen again slightly over the last few years. The average rate of vaccination is over 95%, which is well above the minimum level recommended by the WHO. The National Institute of Public Health and the Environment’s Centre for Infectious Disease Control (RIVM/CiIb) already makes a special effort to educate sections of the population who have religious objections about the National Vaccination Programme. The main aim is make them more aware of the problem. In the past, however, activities to persuade them to participate have had little effect and in the Netherlands vaccination is not compulsory.

203. Since the previous periodic report, the following changes have been made to the National Vaccination Programme:

- Since 2001 four-year-olds have been given a “booster” jab of acellular whooping cough vaccine
- Since 2002, children are vaccinated at the age of 14 months against meningitis C. In the same year, there was a campaign to vaccinate all children up to the age of 18 years against meningitis C
- Since 2005, children have been vaccinated against hepatitis B if at least one of the parents was born in a country where the virus is highly or moderately endemic (at 2, 3, 4 and 11 months) or if the mother is a bearer (extra vaccination and immunoglobulin directly after the birth)
- Since 2005, the whooping cough component of the DTPP+Hib vaccination has been replaced by an acellular component
- Since 2006, vaccination against pneumococcus has been included in the vaccination programme for children at the ages of 2, 3, 4 and 11 months

### **Drugs and alcohol**

204. In response to the Committee’s recommendation to take all necessary measures to prevent drug and alcohol abuse, the Netherlands has done what it could over the last few years to prevent alcohol abuse by children and young people. The House of Representatives has agreed to various policy proposals on Alcohol and Young People contained in the government’s letter of 24 March 2005 on the subject. The principal measures are:

- Stricter enforcement of the minimum legal age of 16 years for mild alcoholic beverages and 18 years for strong liquor
- Introduction of a new educational slogan in all media advertising of alcoholic beverages conveying the message “not for the under-16s”
- Development of a large-scale campaign targeting parents and advising them to delay the consumption of alcohol by their children for as long as possible
- A greater stress on the links between alcohol and violence

### **Pre and postnatal health**

205. It is in the best interests of children to act early to identify behavioural difficulties, assess the risks they pose and where necessary provide appropriate treatment without delay. The relevant parties in the youth healthcare services are drawing up guidelines for the early identification of psychosocial problems. These will address the period from pregnancy to the

child's 19th birthday. The need for close cooperation and smooth handovers between prenatal, postnatal and youth health care services is also recognised and the relevant parties are now preparing written protocols for this too.

206. On 27 January 2005, the Health Council of the Netherlands published a report on the risks of alcohol consumption related to conception, pregnancy and breastfeeding. According to this report, it is not possible to indicate a safe limit for alcohol consumption around the time of conception and during pregnancy and breastfeeding. The only safe option is to abstain from alcohol consumption altogether. The Health Council also feels that couples wishing to conceive should be offered one-to-one counselling about alcohol and pregnancy.

207. This is now going to be provided. In 2006 the Royal Dutch Obstetricians' Association (*Koninklijke Nederlandse Organisatie van Verloskundigen*, KNOV) launched a nationwide pilot project on the provision of preconception care by midwives. At various places in the Netherlands, midwives are providing individual counselling for would-be mothers on alcohol consumption and other issues. Following the pilot, preconception care will be rolled out nationwide so that all women can receive professional advice tailored to their needs before they become pregnant.

## **Youth mental health services**

### *Legislation*

208. The Youth Care Act, which entered into force on 1 January 2005, provides that the youth care offices must decide what care young people with severe developmental and behavioural difficulties and psychiatric problems should receive and are the sole gateway to such mental health services for young people. The only exception to this rule is that a doctor (usually the family doctor) may refer directly where there are self-evident signs of psychiatric disturbance.

209. In 2005, the fact that such care can only normally be obtained following a specific needs assessment by a youth care office proved problematical. This prompted central government to make an extra €17 million available in that year on a one-off basis for intake and diagnostic work in the youth mental health sector; from 2006 onwards, an extra €16 million a year will be provided for this work on a structural basis.

210. A protocol developed in 2006 for the assessment of young people with psychiatric problems is intended to improve the division of diagnostic duties between the youth care offices and youth mental health services. Discussions have been held on how the flow of clients currently reaching the mental health services via family doctors can be rechannelled through the youth care offices.

211. Unfortunately, children with behavioural, developmental or psychiatric difficulties are still having to wait too long to receive attention from the youth care system and youth mental health services. On 1 January 2005 there was a waiting list of 20,000 for youth mental health services (compared with 13,500 on 1 January 2004). Of these, 5,000 were in the intake phase, 11,300 in the diagnostic phase and 3,800 awaiting treatment. It is possible that the growing waiting lists are due to improved diagnosis by the youth care offices and youth mental health services; cries for help which used to go unheard are now being recognised at an earlier stage. There is also a

shortage of psychiatrists trained to treat children and adolescents. More funding is to be earmarked to reduce waiting times and an action plan has been drawn up to tackle waiting times for youth care. This includes performance targets for all the parties concerned.

### *Supply of services*

212. Increasing numbers of children with psychiatric problems and behavioural difficulties are making use of youth care services, chronic care provision and special forms of education. The growth in uptake is partly due to earlier diagnosis of children's problems. However, there may also be a growing social tendency to medicalise children's problems by labelling unacceptable behaviour as symptomatic of ADHD, PDD-NOS etc.

213. The Committee recommends the State party to take all necessary financial and administrative measures to ensure adequate availability of mental health services. In the Netherlands, youth mental health services are provided by the child and youth departments of the Regional Institutes for Outpatient Mental Health Care (RIAGGs, now generally part of integrated regional mental health care institutions) and the general psychiatric hospitals, the children's departments of the teaching hospitals and the outpatient clinics at psychiatric institutions serving children and adolescents.

214. These are primarily concerned with treating mental disorders among children and adolescents. However, these often occur in combination with developmental and behavioural difficulties, which are the responsibility of the youth care system. For this reason, the youth mental health care services are part of the youth care network, as well as part of the networks surrounding other areas of the health services, such as primary and specialist health care. Close cooperation and coordination between youth mental health care and the somatic care services are vital in this respect. Likewise, the youth mental health care services play a major role in the care and welfare network, both by preventing mental disturbance and by identifying the early signs of it in schoolchildren and school drop-outs.

215. In recent years, there has been rapid growth in the youth mental health care sector. For example, the number of beds in clinics was 1,409 in 2003, compared with only 1,230 in 2000. Similarly the number of patient days was 479,000 in 2003, compared with 387,000 in 2000; the number of part-time treatments that year was 175,000, compared with 118,000 in 2000; and the number of outpatient contacts was 636,000, compared with 559,000 in 2000. In the course of 2003, 35,000 children were registered as new patients, 62,000 children had at least one contact with a mental health institution and 32,000 children were discharged from patient registers. Of the children who had contacts with institutions, 95% received outpatient care, 1% inpatient care and 4% a combination of the two. (*Source: GGZ in tabellen, Trimbos Institute.*)

216. The total cost of mental health care in 2003 was just over €3.5 billion (*Source: Statistics Netherlands*). This is 10% of total spending on health care in that year. The child and adolescent psychiatric units cost €172 million. Over the 2001-2003 period, the total cost of mental health care increased by 21%. In the case of the psychiatric units serving children and adolescents, however, the increase was 30%. (*Source: GGZ in tabellen, Trimbos Institute.*)

### *Orthopsychiatry*

217. In 2007 the Ministry of Health, Welfare and Sport will become responsible for the treatment of young people with serious behavioural problems, who are at present committed to young offenders' institutions under civil (i.e. not criminal) law; at present, the Ministry of Justice is still responsible for such young people (for further information, see Art. 18, para. 2). Some of the juveniles concerned suffer from multiple problems: severe developmental and behavioural difficulties in combination with psychiatric problems. They need to be treated within the youth mental health care system and extra capacity will be made available for this over the next few years; at present, this means an extra 176 inpatient places in orthopsychiatric institutions.

218. In 2005 the government earmarked an extra €5 million in an emergency plan to create extra crisis treatment places in the youth mental health care system. Institutions were able to use this money in that year to reach agreements with the youth care office on the provision of extra care.

### *Access to care*

219. On 1 January 2006, a new health insurance system was launched in the Netherlands. The whole population of the country now have to take out private health insurance. The health insurance companies have to accept everyone who applies and children under the age of 18 are insured free of charge.

220. On 1 January 2008, curative mental health care is to be transferred from the Exceptional Medical Expenses Act (AWBZ) system into this mainstream system. Youth mental health care institutions will then have to deal with the insurance companies on behalf of their patients; the treatment of a small group of chronically ill patients will continue to be funded under the AWBZ system (because it is long-term in nature).

### **Young homeless people**

221. The government and the four major cities in the Netherlands (the G4) have drawn up an action plan designed to offer rough sleepers and other homeless people a better life and, by doing so, reduce public nuisance and crime. The plan includes action on the young homeless. An integrated, individually tailored approach is to be adopted to ensure that they and other homeless people no longer fall through the net but are referred, like other members of the community, to the appropriate care services. Coordination of the operation is in the hands of the municipalities. This highly individual approach is to be adopted not only in the G4, but also in 39 other regional urban centres. By 2008, they should all have arrangements in place for this.

### **Cooperation with developing countries**

222. The Netherlands invests considerable effort in international cooperation on health care. The emphasis is on assisting the least developed countries and on improving basic health, in particular health care systems, and the manpower necessary for this.

223. 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 organisations (mainly WHO, UNICEF, UNFPA and 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, sex education, vaccination programmes (e.g. the GAVI campaign), the provision of essential medicines, and programmes for the control and treatment of infectious diseases like malaria, TB and HIV/AIDS. In 2005, the Netherlands was the fourth biggest UNICEF donor in terms of US dollars.

#### *Health and nutrition*

224. For many years, the Netherlands has targeted aid at multilateral organisations and national/international NGOs to help them protect breastfeeding and promote the practice of exclusive breastfeeding during the first six months of life.

225. Within the context of development cooperation, the Netherlands has striven to publicise the Convention as a means of improving child nutrition and child health. For example, it helps UNICEF and the International Baby Food Action Network (IBFAN) 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.

226. In addition, the Baby Friendly Hospital Initiative (BFHI) has done much to advance policy on infant nutrition and to train health workers. The Netherlands continues to support the BFHI and its expansion from hospitals into the community, and also to support organisations engaged in training for the protection, promotion and support of breastfeeding.

227. 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*

228. 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 2005, the Netherlands was the third largest donor to UNAIDS in terms of USD. It is also the largest donor to UNFPA, which tackles the problem mainly through prevention.

229. Prevention is still the main way to stem the HIV/AIDS pandemic. Intensive action is required to promote behavioural change amongst adolescents but this will necessitate action in many different areas to change the prevailing culture. One essential means of change is to create new balances of power between the sexes, in adolescence as well as adult life. The necessary diversity of action 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 and immigrants; public education via street theatre, etc.

230. 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 now to some extent be prevented by the administration of drugs. The Netherlands is supporting initiatives to improve access to these drugs.

231. Transmission of HIV via breastmilk is possible, but exclusive breastfeeding (without supplementary bottle-feeding) increases babies' chances of survival. The risk of dying as a result of infected breastmilk is still less than that of dying as a result of not receiving breastfeeding. 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 the WHO and UNICEF.

#### *Young mothers and family planning*

232. 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. The term covers not only maternal health and family planning, but also sex education.

233. Sexual and reproductive health and associated rights are extremely important aspects of Dutch development cooperation policy. Young people are seen as the key to improvement and the Netherlands supports their right to information and facilities in this area. Other Dutch priorities are:

- Promoting safe motherhood, with a greater focus on the safety of neonates
- Action to improve the availability of and access to reproductive health facilities, including contraceptives and condoms (not just for family planning, but also for the prevention and control of sexually transmitted diseases, including HIV/AIDS)
- Promoting the availability of facilities and properly trained staff for the provision of safe abortions
- Promoting the availability of reproductive health services for refugees and people in conflict and crisis situations
- Action to combat violence against women and children (often including sexual abuse). The Netherlands provides support for the care and assistance of victims, as well as for prevention

Dutch funding in these areas is often deployed via the UN and national/international NGOs. The Netherlands also raises these subjects as human rights issues.

### **C. Articles 26 and 18, paragraph 2 (Social Security and Youth Care)**

#### **New health insurance system**

234. The Dutch health insurance system has recently been radically reformed following the passing of an Act governing social insurance for health care for the entire population (the Healthcare Insurance Act). This created a new form of social health insurance for curative care. The new healthcare insurance system came into operation on 1 January 2006.

235. Chief characteristics are:

- Everybody who is insured under the Exceptional Medical Expenses Act (*Algemene Wet Bijzondere Ziektekosten*, AWBZ) is obliged to take out health care insurance under the Healthcare Insurance Act. This means that everyone who resides or works in the Netherlands is obliged to take out medical insurance.
- The private healthcare insurance companies who are implementing the Healthcare Insurance Act are obliged to accept every applicant who falls under the Act.
- The standard insurance package is specified by law, depending on the type of care to be provided. The health care insurers can themselves specify the person or institution to provide the health care in question, so long as that person or institution is legally entitled to do so.
- Healthcare insurers must in all cases offer a care insurance policy with zero excess. They may also provide policies with statutorily determined amounts of excess.
- All insured persons aged 18 and older pay their insurer a nominal premium unrelated to their income. Care insurers are free to set their own premiums. Premiums may vary for different variants of the insurance policies they offer, but must be the same for everybody who chooses the same variant.
- Persons below the age of 18 are not obliged to pay a nominal contribution. This is a change compared with the former situation, in which many parents had to pay nominal contributions for their children as well.

#### **Exceptional Medical Expenses Act (AWBZ)**

236. The Exceptional Medical Expenses Act provides for a national insurance scheme for the long-term care of the disabled, elderly etc. The Act creates a universal entitlement to appropriate long-term care in case of chronic illness or disability.

237. In recent years, government has worked hard with civil society organisations to make such provision more client-centred. On 1 April 2003 a major advance was achieved with the introduction of new rules giving clients more options, greater freedom of choice and more say in their care.

238. The last few years have seen both a sharp rise in the cost of care and a steady increase in demand. The government is having to take action to ensure that this type of care remains affordable. A proportion of it is to be transferred to a different statutory scheme implemented by the municipalities (under the Social Support Act) and another proportion to the Healthcare Insurance Act. The Exceptional Medical Expenses Act scheme will then be used chiefly to insure “intensive chronic and continuous care”.

239. Where children are concerned, the basic philosophy is that they should live at home, even if they are severely and/or multiply disabled. This gives disabled children the chance to experience a comparatively normal childhood. The aim is that they should, wherever possible, go to school. In cases of severe multiple disability, they can receive a personal budget for special needs support at school. In cases of very severe disability, there are medical day nurseries (part of the youth care system) and special daycare centres for children with learning difficulties (funded under the Exceptional Medical Expenses Act scheme).

### **Social Support Act (*Wet Maatschappelijke Ondersteuning*, WMO)**

240. The Social Support Act will enter into force on 1 January 2007. The Act is designed to ensure that everyone has the chance to participate in society, whatever their age - adult and child alike.

241. It is primarily up to municipalities to encourage such participation and make it possible. The Act contains specific provisions on participation by people (including children) with disabilities. It includes a “duty to compensate”, meaning that municipalities have an obligation to make general and individually tailored provision in the fields of housing, transport, home helps and social life to make it possible for disabled people to participate in the life of society. Municipalities should realise that it is cheaper in the long run to design mainstream provision to be accessible for the disabled than to make specific provision for that section of the population. Infrastructure in local communities will now be more accessible to all.

242. The Social Support Act replaces the Social Welfare Act and the Services for the Disabled Act. Responsibility for educational provision and for guaranteeing work and income for the disabled had already gradually passed into the hands of the municipalities. Central government expects this combination to lay the foundations for integrated solutions in the various policy fields.

### **Reservation to the Convention**

243. The Committee advises in recommendation 11 on the second report of the Netherlands that it review its reservation to article 26. The Netherlands has adopted article 26 of the Convention subject to the reservation that it does not confer an independent right to social security on children themselves. Children enjoy the benefits of the Netherlands’ social security system via their parents. Where necessary, the Netherlands provides financial assistance for children via their parents. This and other reasons gave rise to the Dutch reservation to article 26 of the Convention. Since that time, there have been no changes that might cause the Netherlands to adopt another position.

### **Entry into force of the Youth Care Act**

244. The Youth Care Act (*Wet op de Jeugdzorg*) entered into force on 1 January 2005. This legislation represents an important step towards a more client-oriented, joined-up youth care system. Under the Youth Care Act, young people up to the age of 18 with serious developmental and behavioural difficulties who cannot be assisted through general channels such as the education system, youth health care services or social work have a statutory right to youth care. Youth care services are also available for their parents or others with responsibility for their upbringing. However, it should be noted that in this case the service provided is intended merely as assistance. Youth care is also available for young people up to the age of 23 if the youth care office believes it is necessary to prolong the assistance already being provided in connection with the young person's developmental and behavioural difficulties.

245. Youth care services are not provided simply as a matter of course. The government also looks at what the child's family and social network can do to solve the problems. A relatively small problem can severely disrupt a family that has little capacity to deal with it. Other families, on the other hand, are more resilient, and are able to tackle problems quite effectively with the help of their social network. In short, therefore, in assessing whether youth care services are needed, the youth care office carefully considers whether the family and social network can cope.

246. Youth care encompasses all care provided to parents and children to address severe developmental and behavioural problems. The care might be provided in the family home or elsewhere, such as a youth care institution or foster families. Several hours of care a week might be provided over a few months, but in some situations it might be better for the child to live away from the family for a time.

247. The provincial authorities are responsible for the youth care services provided under the Youth Care Act. However, other types of publicly-funded specialist help for young people and/or their parents are also available:

- Provincially-funded care (Youth Care Act)
- Youth mental health care (Exceptional Medical Expenses Act, AWBZ)
- Care for young disabled people (AWBZ)
- Civil-law placement in a young offenders' institution (Young Offenders' Institutions Framework Act)

248. In accordance with the UN Committee on the Rights of the Child's recommendation 44B, the Youth Care Act complies with the principles of the Convention. Its entry into force was also expedited, as recommended.

249. The Youth Care Act has two aims. Firstly: to provide better care for young people and their parents (youth care service clients). Secondly: to strengthen their position. The effectiveness of the Act is monitored in various ways, to ensure that it caters adequately for the need that exists. The Act has, for instance, been evaluated, and a Youth Care Brigade has been established.

#### *Evaluation of the Youth Care Act*

250. The Youth Care Act entered into force on 1 January 2005. During its debate on the Act, the Senate adopted a motion submitted by Soutendijk et al.<sup>3</sup> This motion requested that the government report to the Senate within two years on the following matters:

- Progress with the organisation and streamlining of youth care services
- Practical experience of implementation
- Funding and control

252. Under the terms of the motion, the legislation should achieve the desired cohesion and efficiency in youth care services within four years. The evaluation was launched in late 2005, and the report and the government's response will be available by the end of 2006.

#### *Youth Care Brigade*

253. The government has set up a "Youth Care Brigade" to tackle unnecessary bureaucracy in the youth care system. Since September 2004 the Youth Care Brigade has been working with young people, parents, youth care workers and the authorities to identify unnecessary bureaucracy and how things can be done differently. It has also made recommendations as to how unnecessary bureaucracy can be avoided. In its final report of June 2006 the Youth Care Brigade concluded that the youth care system is workable, and that the rules and bureaucracy are commensurate with the specific nature of the sector. However, bureaucracy could be reduced, and the Brigade made 92 recommendations to this effect. In response to one of its recommendations, a bill has been adopted that will prevent some ten thousand unnecessary indication procedures or case review processes.

#### *Prevention*

254. The Youth Care Act comes into play in cases of severe developmental and behavioural difficulties. In recent years the government has made major investments in prevention, to stop these problems occurring in the first place. In the Netherlands, local authorities are responsible for preventive youth policy. Local authority responsibilities in this area have been defined more

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<sup>3</sup> Senate 2003-2004, 28 168, F.

clearly (see the section on the Social Support Act elsewhere in this report). Timely identification and effective intervention when problems threaten to arise will remain the priority over the coming years. Local Youth and Family Centres and a referral index will help (see under art. 3). The idea is that the demand for youth care services should eventually diminish.

### **Children's interests**

255. Following a number of tragedies involving children, changes have been made to ensure that children's interests are better reflected in social work practice. For example, under the Youth Care Act a youth care office no longer has to wait for a request from the parents; it can now approach a family after a report has been made by a third party.

### **Principles of the Youth Care Act**

256. Other important changes introduced by the Youth Care Act are set out below.

#### *1. Client needs are key*

257. Young people are the focus of the Youth Care Act. Youth care services must be provided on the basis of the client's needs, as stated in several places in the legislation. Every client has a right to care, and must agree to the assistance plan. This does not, however, apply to child protection. Youth care offices and care institutions must also have an independent confidential adviser, a client council and a proper complaints procedure. Some institutions have a separate youth council.

258. The provincial authorities and central government must also coordinate their policies with client organisations. Their implementation programmes must for example be submitted to the client organisations.

259. The National Youth Care Client Forum, which includes representatives of local and provincial client councils, has been active since 2005. The national forum encourages and assists local and provincial client councils, and runs youth participation projects and a national website, among other things. In January 2006 the national council held its first national client day. The "C Test" has been developed for youth care institutions, to help them to elicit feedback from clients. It is currently being used in around 40 institutions.

#### *2. A single central, recognisable portal for youth care*

260. The Youth Care Act has placed the youth care offices on a statutory footing. Each province has a youth care office, which acts as the central portal for youth care services. As a result, parents and young people experiencing severe developmental or behavioural difficulties can turn to a single institution. The office provides access to provincially-funded care, youth mental health care, care for young people with a slight disability and civil-law placements in young offenders' institutions. They will not begin providing access to care for young people with slight learning difficulties until 1 January 2008, in view of the complexity of this particular matter. The new legislation represents an important step towards better cooperation between youth mental health care services and care providers in this field. A partnership protocol states clearly who is responsible for what, and on what criteria decisions are to be based. It sets out requirements concerning indication procedures for young people with psychiatric problems.

3. *The Youth Care Act confers a right to care*

261. Clients receive care only if they have an indication from the youth care office. To ensure that the right to youth care can be exercised, sufficient treatment and residential capacity will be needed to prevent unnecessarily long waiting times and waiting lists.

262. The present government has prioritised the reduction of waiting lists and waiting times for youth care. In 2003, structural extra funding of €11.7 million was earmarked for this purpose, rising to €39.4 million from 2007 to increase the supply of care. In response to the rising number of care orders, a further €5 million was provided in 2006, and €33 million for the subsequent years.

263. Extra money has also been provided to ensure that, by the end of 2006, children receive care within a maximum of nine weeks. A lump sum of €100 million has been made available for this purpose: €50 million in 2006 and €50 million in 2007. In response to the growing demand for youth care services, the government is to provide a further €40 million a year from 2007. The State Secretary for Health, Welfare and Sport has concluded performance agreements with each province, to ensure that, by the end of 2006, children actually receive the care they require within nine weeks. Together the provinces are providing care for an extra 7,700 children in 2006.

264. The government hopes that the extra funding and the agreements reached with the provincial authorities will mean children with often severe problems will receive the help they need much sooner. It has also made major investments (along with the other parties involved) to reduce the waiting lists at Advice and Reporting Centres for Child Abuse and Neglect (AMKs). A one-off sum of €6 million was provided for this purpose in 2005. The government recently (in 2006?) decided to provide an additional €5 million. Demand is rising sharply and the AMKs' waiting lists, while at one point perhaps reduced to almost nothing, can quickly increase again. More information on developments concerning child abuse and neglect can be found under article 19.

4. *Quality*

265. The care itself must be good, and comply with certain conditions. For example, effective alert systems and interventions are being developed. The sector itself is introducing quality systems and performance indicators to allow it to assess its own work.

5. *Care available*

266. A broad range of care is available, from community to residential (institutional) care. There have been new developments in two specific forms of care: foster care and treatment in a secure setting.

**Foster care**

267. Under the new legislation, foster care constitutes a special form of youth care. After all, foster parents voluntarily provide a new home, free of charge, for children who are unable to live in their own home. More and more children are being placed in foster care, with figures rising from 12,000 in 2000 to 17,500 children a year in 2005.

268. At the same time, placements in foster care have been growing shorter over the past few years, particularly in cases involving older children. In 2005, over 35% of all foster placements lasted for under three months. A third of children in foster care are placed with people they know: grandparents, aunts and uncles, teachers or neighbours. About a third belong to ethnic minorities. In 2005, as many boys as girls were placed in foster care. 37% of the children requiring foster homes are under the age of five. Sixty per cent of all foster children are removed from their home under a child protection order issued by a court. Some 10% of the children have a learning or physical disability. The proportion of foster children from an ethnic minority background has risen in recent years from 15% in 1998 to 35% in 2004. The Netherlands has 28 foster care centres (*Source: Factsheet on Foster Care 2005, Pleegzorg Nederland*).

269. In recommendation 42, the UN Committee on the Rights of the Child recommended that foster care be strengthened and further developed. The government has taken steps to ensure this is the case, with one major improvement in the form of the annual indexation of the foster care allowance and supplements from 2006. Index-linked increases are now paid in advance, too, rather than retroactively. Foster care has also benefited from the extra money the government has made available to tackle waiting lists and waiting times, which has increased capacity. There are now no capacity problems related to lack of funding; it is now mainly a matter of finding enough foster parents.

270. Some improvement measures are still in progress:

- The possibility of strengthening the position of foster parents by means of a statutory regulation in the Youth Care Act is being examined. Problems in child protection legislation affecting foster care are being tackled
- The individual contribution - which the Youth Care Brigade has recommended be abolished - is currently being evaluated
- A national recruitment campaign for foster parents continues

### **Secure youth care**

271. A growing group of young people in the Netherlands have such severe behavioural problems that they need to be treated in a secure institution. This is not yet possible in the regular youth care system. These young people must therefore be sent for treatment in a young offenders' institution (*Justitiële Jeuginrichtingen, JIJ*), even though they have not been convicted of any crime. Regular youth care institutions are unable to help them because of their specific problems and their need for treatment in a secure setting. Furthermore, there is not always enough capacity to treat these young people. However, placing young people with no criminal record alongside those who have been convicted of crimes is now widely regarded as undesirable in the Netherlands.

272. In May 2005 the Minister of Justice and the State Secretary for Health, Welfare and Sport therefore decided, partly in response to recommendation 57D of the UN Committee on the Rights of the Child, that these two groups should be housed separately. The Youth Care Act will be amended accordingly. From 2007 young people who at present are committed to a young offenders' institution by a civil court will be committed to a non-custodial form of secure youth care. They will no longer be placed alongside young people who have been sentenced to a young offenders' institution by a criminal court.

273. This amendment will allow the young people in question to be treated in a secure setting. First, the youth care office will have to issue an indication, and a children's judge will have to issue an order for secure treatment. The new secure youth care system will focus particularly on intersectoral assistance, providing its clients with both youth care services and help with mild learning difficulties and mental health care. For orthopsychiatric care in the context of mental health care, see article 24.

274. The State Secretary for Health, Welfare and Sport (not the Minister of Justice) will thus be responsible for young people placed in secure care by a civil court.

275. The treatment capacity needed to care for these young people with severe behavioural problems will be created within three years. Measures are already under way, with the conversion of a number of young offenders' institutions to new non-custodial institutions, and the establishment of new intersectoral care provision.

### **Inspectorates**

276. Central government inspectorates are charged with the statutory supervision of most types of youth care, and have the requisite powers. If necessary, the competent administrative authority will take enforcement measures.

277. Five inspectorates are concerned with young people:

- The Youth Care Inspectorate
- The Health Care Inspectorate
- The Education Inspectorate
- The Public Order and Safety Inspectorate
- The Work and Income Inspectorate

278. These inspectorates will work in closer partnership, under their joint Youth Supervisory Programme 2007-2012. The key themes of the programme are: child safety in the community;

continuity of care; and the expertise of professionals. The inspectorates conduct project-based joint integrated studies of social problems involving young people. The five inspectorates also coordinate their regular individual supervisory activities where possible.

### Youth care in figures

#### 1. Youth care office registration

Province/metropolitan region	2004	2005	Difference (%)
Groningen	944	1 537	63
Friesland	1 312	1 338	2
Drenthe	1 699	1 832	8
Overijssel	2 928	3 039	4
Gelderland	5 500	7 043	28
Flevoland	1 634	2 254	38
Utrecht	3 308	3 433	4
Noord-Holland	4 922	3 686	-25
Zuid-Holland	5 724	6 589	15
Zeeland	441	1 175	166
Noord-Brabant	4 778	7 454	56
Limburg	5 072	5 837	15
Amsterdam	7 017	7 478	7
Rotterdam	1 870	2 982	59
Haaglanden	4 980	6 221	25
Total	52 129	61 898	19

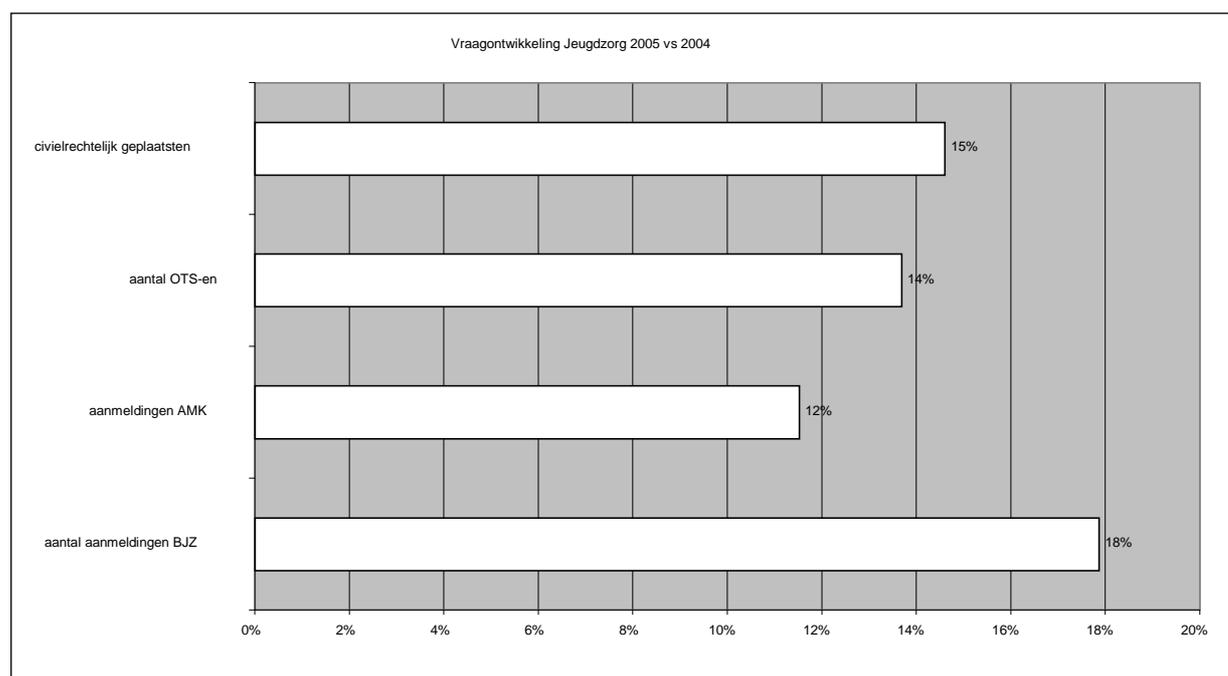
*Source:* Youth Care policy information.

#### 2. Trends in the demand for youth care services

279. In the first three quarters of 2005 18% more children were registered with a youth care office than in the same period of the previous year (46,000 registrations as opposed to 39,000). Some of the increase was caused by the fact that youth care offices now serve as gatekeepers to the youth mental health care system, alongside family doctors. However, the vast majority of cases concerned youth care services provided by the provincial authority.

280. There is not only more demand for provincially-funded youth care; the pressure is in fact being felt on several fronts in the youth care sector. The number of children being placed under a supervision order has risen by 14% over the course of a year; the number of reports of child abuse saw a 12% increase, and the number of children being placed in a young offenders' institution by a civil court (crisis placements) has risen by 15% (see figure below).

### Trends in demand for youth care services, 2005 v. 2004



Source: Youth Care policy information.

Four bars in figure: placements by civil court; supervision orders; child abuse reports, AMKs; YCO registrations.

### 3. Reducing waiting times for youth care services

		Budget	No. of children
A	Waiting list > wait longer than 9 weeks, as at 1 January 2006		5 000
B	Projected growth in waiting list in 2006 due to extra demand		+ 2 700
C	Total number waiting longer than 9 weeks, 31 December 2006 (A + B)		7 700
D	Extra money from government on taking office in 2002 (coalition agreement, and in response to increase in care orders), and children it is to be spent on	€43 m	- 1 900
E	Remaining number of children waiting, 31 December 2006 (C-D)		5 800
F	Extra money for government plan of attack	€100 m	
	- Youth care office community care		- 600
	- Extra efforts by care providers		- 5 200
G	Eventual waiting list > 9 weeks on 31 December 2006		0

**4. Use of provincially-funded youth care services (incl. developments in no. of young people in/clients of foster care)**

**Table 1**

**Trends in use of provincially-funded youth care services**

	1998	1999	2000	2001	2002	2003	2004	2005
Community care indicated	2 114	5 753	6 740	7 761	9 999	11 474	-	-
Day treatment	9 020	8 301	8 491	8 670	9 276	9 299	-	-
Foster care	11 566	11 738	11 646	14 081	13 852	14 929	15 960	17 581
Residential	17 243	17 077	17 044	16 291	16 633	16 013	-	-
Total	39 943	42 869	43 921	46 803	49 760	51 715	-	-

*Source: SRJV, Pleegzorg Nederland (2004, 2005).*

**Table 2**

**New clients in provincially-funded youth care**

	2001	2002	2003	2004
Community care indicated	4 972	6 331	6 978	6 241
Day treatment	4 179	4 632	4 703	3 930
Foster care	4 477	4 233	3 302	6 349
Residential	10 162	10 637	10 383	3 027
Nationally operating institutions				193
Total	23 790	25 833	25 366	19 547

*Source: SRJV, PWC (2005).*

**Remarks**

281. The number of users of indicated community care, day treatment and residential care cannot be calculated for 2004, as no figures on the number of young people receiving assistance were recorded at the beginning of that year. Influx = new clients receiving assistance for the first time in the year in question.

282. Data on care provided by nationally operating institutions were not kept separately until 2004. They were included in the figures for foster care and/or residential care. These institutions saw an influx of 193 young people in 2004.

#### **D. Article 18, paragraph 13 (Childcare services)**

##### **Legislation**

###### *Childcare Act 2005*

283. There have been many developments since 2002. In a growing number of families in the Netherlands, both parents work and more and more children spend time away from the home. In 2006, some 340,000 children were in some form of childcare at over 3,500 day-care centres. The costs of childcare are shared between parents, employers and the government. Childcare has been high on the agenda in recent years, reflecting a desire for both better quality and increased capacity. An adequate supply of childcare allows parents more opportunity for combining work and care responsibilities.

284. The new Childcare Act entered into force on 1 January 2005, reforming the childcare system. “Demand-side financing”, provided via parents, has replaced “supply-side financing”, provided by local authorities. As a result, childcare organisations are now subject to market forces.

285. The Childcare Act provides for a new method of funding childcare. It assumes that the costs of childcare will be borne collectively by parents, employers and the government. The employer’s contribution is voluntary, and in most cases is one of the terms of a collective labour agreement. The aim is for 90% of employees to be receiving a contribution towards their childcare costs from their employer by 2008 (the figure was 73% in 2004). An evaluation of developments in collective labour agreements in terms of employer contributions has led to the conclusion that this target will not be achieved. Employers will therefore pay a mandatory contribution from 2007 onwards.

286. Parents receive the government’s contribution towards the cost of childcare via the tax system. Direct subsidisation of facilities has achieved results. Childcare institutions are competing on price and quality, now that parents are able to move to another organisation if the price is too high or the standard too low.

287. The new legislation does not set any specific quality requirements for childcare centres. This gives the sector more freedom to set its own rules to ensure it meets the statutory requirement of providing responsible childcare. Each childcare institution must identify its own health and safety risks. It must also be able to show that it is paying due consideration to other matters, such as the staff/child ratio, the size of the group and the qualifications of staff. Furthermore, a childcare institution may ignore the recommendations of the parents’ committee only if it provides a written explanation. The local authorities ensure that the quality requirements are met, carrying out inspections and keeping a register of organisations that meet the requirements.

288. With the Childcare Act, the government wishes to encourage the transformation of the childcare sector, introducing more market forces and allowing parents more choice. The reduction in the number of rules should reduce the administrative burden on childcare institutions. The impact of the Childcare Act will be studied in due course.

*Government funding*

289. During the period 2005-2007 government spending on childcare rose from €680 million to €1,580 million.

*Balancing supply and demand*

290. In anticipation of the Childcare Act, an incentive programme was launched to increase the number of childcare places to an adequate level. As a result, a balance was struck between supply and demand, with 207,000 daycare places available in 2004.

**Funding**

291. During the period 2005-2007 government spending on childcare rose by €900 million, from €680 million in 2005 to €1580 million in 2007. A total of 339,000 children used childcare services. This number exceeded the total number of places available, as few children were in full-time daycare. Generally speaking, there are no longer any waiting lists for childcare places.

**Childcare 1998-2004**

Capacity (No. of full-time places)	Age groups	1998	2002	2004
Centres	0-3	66 380	107 211	124 386
Centres	4-12	19 278	54 995	74 125
Registered child minder	0-12	8 208	10 447	8 203
Total		93 866	172 653	206 714
Children in daycare	0-3	130 828		213 848
	4-12	52 082		126 141
Total		182 910		339 989
% of children in daycare	0-3	16.9%		26%
	4-12	3.0%		7%
Total		7.3%		13%
Capacity per 100 children	0-3	9.19		15.2
	4-12	1.86		4.1
Total		4.11		7.9

292. From 1 August 2007 schools will be legally obliged to provide out-of-school care between 7.30 and 18.30, or offer facilities for other parties to do so and set requirements for them to meet. This should allow better coordination of school hours and parents' working hours, reducing the burden both on parents and on school-age children.

293. Parents will remain responsible for the care of their children, but schools must facilitate the alignment of education and childcare if parents so wish. Working parents with school-age children up to the age of 12 need more help in combining work and raising a family. It is easier to strike a better work-life balance once their organisational problems are solved, providing

parents with the opportunity to work longer hours. The key concern is that every child should have the opportunity to develop to its full potential. Collaboration between schools and childcare organisations will make an important contribution to this. The government wishes to see well-coordinated provision in the fields of education, childcare, sport and culture - known as “wraparound care” - for every child.

### **E. Article 27, paragraphs 1-3 (Standard of living)**

#### **Trends, 2001-2004**

294. The Netherlands has a comprehensive system of social insurance and other provisions that guarantee residents a minimum income. A minimum income does not equal poverty; it is enough to cover a person’s living costs, provided they use the income support available and exercise financial discipline.

295. The economic recession has caused a rise in the number of households in receipt of the minimum income: from 451,000 in 2001 (7.1%) to 515,000 in 2004 (7.9% of all households). More recent statistics are not available.

#### **Table**

**Trend in the proportion of households in receipt of an income around the minimum<sup>4</sup>**

	Total			Long-term		
	To 101% of minimum	To 105% of minimum	To 110% of minimum	To 101% of minimum	To 105% of minimum	To 110% of minimum
2001	6.6	8.6	11.0	.	.	.
2002	6.7	8.8	11.0	.	.	.
2003	7.4	9.4	11.7	1.9	3.3	4.9
2004	7.9	10.0	12.2	2.1	3.6	5.1

*Source:* CBS 2000 and 2004 figures provisional.

Guide: In 2004, 7.9% of all households in the Netherlands received the minimum income for a whole year; 2.1% had been in long-term receipt of the minimum income.

<sup>4</sup> The income statistics were revised in 2000, with improvements being introduced in the derivation of income definitions. The results of the series prior to 2000 are not therefore comparable with the results of the 2000-2004 series. Given the fact that the review of the income statistics is incomplete, the figures for 2000 to 2004 are provisional. Figures on the number of households in long-term receipt of the minimum income are available only from 2003 onwards, as a result of the review of the income statistics in 2000.

296. The table below shows both the trends in the number of households on the minimum income and the proportion of *all* households of a certain type in receipt of the minimum income (long-term or otherwise).

**Table proportion of households in receipt of an income up to 101% of minimum**

	Total number/% of households				Long-term	
	2000	2000	2004	2004	2004	2004
<b>Under 65</b>	%	N * 1 000	N * 1 000	%	N * 1 000	%
Single man	11.4	82	102	13.9	29	3.9
Single woman	15.0	83	89	15.7	33	5.8
Lone-parent family	21.8	82	97	23.8	23	5.6
Couples with child	3.0	58	77	4.0	10	0.5
Couples without child	3.4	45	51	3.9	10	0.7
<b>65 and over</b>						
Single man	7.2	11	10	5.6	3	1.9
Single woman	9.9	55	52	9.2	21	3.6
Couple (one or both over 65)	2.7	17	19	2.9	4	0.7
<b>By source of income</b>						
Salaried employment	2.1	75	89	2.5	7	0.2
Self-employed	10.5	70	106	14.8	15	2.1
Unemployment benefit	9.5	5	16	18.3	1	0.9
Sickness/invalidity benefit	14.3	36	42	17.3	14	5.6
Social assistance	66.4	166	161	67.5	65	27.1
Old-age or widow's pension	6.0	93	93	5.7	30	1.9
<b>By ethnicity</b>						
Ethnic Dutch	5.8	312	341	6.2	91 000	1.7
Non-western immigrant	19.9	87	113	23.4	26 000	5.3
Western immigrant	9.1	53	61	10.2	18 000	3.0
Total	7.1	451	515	7.9	134 000	2.1

*Source:* CBS 2000 and 2004 figures provisional.

### 1. Labour market participation among single parents

297. The number of single parents on social assistance is falling: from 92,350 at the end of 2001 to 87,850 in March 2006. The proportion of single parents on social assistance also fell between 2001 and 2005: from 29% to 27% (see table 1).

**Table 1**  
**Number of households in receipt of social assistance (members of household < 65 years of age) 2001-2006, by type of household**

	Total	Single	Single parent	Couple	Other/unknown
End of 2001	322 080	175 880	92 530	53 010	660
	100%	55%	29%	16%	0%
End of 2002	320 100	176 630	91400	51 500	570
	100%	55%	29%	16%	0%
End of 2003	335 425	188 035	93 870	53 025	500
	100%	56%	28%	16%	0%
End of 2004	338 575	192 070	92 750	53 110	640
	100%	57%	27%	16%	0%
End of 2005*	328 010	186 120	88 950	51 720	1220
	100%	57%	27%	16%	0%
31 March 2006*	325 850	185 940	87 850	51 100	960
	100%	57%	27%	16%	0%

Source: CBS.

\* Provisional figures.

298. Nevertheless, the proportion of single parents coming off social assistance between 2003 and 2004 was lower than the figure for other forms of household. However, more single parents on social assistance were able to find a job, with a slight increase in 2005 (22.6%; February to September 2005) relative to 2003. Among single parents on social assistance, 37% have a basic labour market qualification (secondary vocational qualification or higher), as against a figure of 35% for the entire group of social assistance claimants and 28% among couples. 42% of single parents on social assistance are of non-Western origin. The proportion of single parents who have received social assistance for over five years is slightly lower than the figure for other households, at 37% versus 43% (one-person household) and 45% (couples).

299. Between 2001 and 2004 many more women joined the labour market. Strikingly, over 25% of them were single mothers. Over this period, the total number of single mothers on the labour market rose by 39,000 to almost 200,000.<sup>5</sup> Statistics Netherlands (CBS) has put this down to the introduction of new social assistance legislation which no longer automatically relieves single

<sup>5</sup> CBS, 6 February 2006.

parents with children under 5 of the obligation to seek work. Women have also changed their attitude to combining work and care responsibilities, as evidenced by the growing proportion of mothers who remain in work.<sup>6</sup>

#### *Work and Social Assistance Act*

300. On 1 January 2004 the Social Assistance Act (*Algemene bijstandswet*) was replaced by the Work and Social Assistance Act (*Wet werk en bijstand*, referred to below as the WWB). Local authorities have more freedom to pursue their own policies in implementing the WWB. This allows them to approach individual single parents to encourage them back to work. The WWB has proved effective in getting women off social assistance and back into work.

301. The weak labour market status of single parents with children is adequately taken into account. The obligation to seek work applies only to single parents with children up to the age of 12 if the municipal executive has established that suitable childcare and sufficient training are available, and that the parent can actually cope with going back to work. The local authority also weighs up the importance of working against the manner in which the parent wishes to fulfil his or her duty of care for the children.

302. The WWB includes important incentives to entice women on social assistance back into work, and encourage other women to stay in work, on a part-time basis if they are not able to work full-time. A one-off payment is available, and social assistance claimants can now earn extra income for up to six months without this having implications for their benefit.

303. Single parents with a child aged below five who have income from work are also entitled to care-related tax credits (supplementary single parent's tax credit, combination tax credit and supplementary combination tax credit).

#### *Childcare and social assistance*

304. The new Childcare Act that came into force on 1 January 2005 replaced specific local authority schemes for single parents. Single parents are now covered by the new legislation. If they are on a reintegration programme they are entitled to an allowance from the local authority for the costs of childcare. In practice, childcare then costs them almost nothing. The allowance may be continued for up to six months after completion of the reintegration programme, to allow the parent to apply for jobs more easily.

## **2. Social assistance for young people**

305. Young people up to the age of 18 have no individual entitlement to social assistance, as their parents are obliged to provide for their maintenance. Under the WWB families, single people living alone and single parents receive a standard amount of benefit.

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<sup>6</sup> Idem.

306. Young people aged 18 to 21 have an individual entitlement to social assistance benefits, though they are expected to call upon their parents to provide for their maintenance. The amount to which they are entitled is equal to child benefit.

307. Young people up to the age of 21 who are living away from home are eligible for additional payments only if they meet certain requirements. Firstly, their essential living costs must be higher than the standard amount paid in social assistance. Secondly, they must be in a situation whereby they cannot reasonably be expected to call upon their parents for assistance.

308. Table 1 shows that few young people received social assistance in 2006. In percentage terms, the figure has for years been fairly stable relative to the total number of social assistance claimants below 65 years of age, fluctuating between 1.7% and 2.5% in the period 2001-2006.

**Table 1**  
**Number of social assistance claimants below the age of 21**

	Young people aged 21 or under	<65	%
4th quarter 2001	7 960	322 080	2.5
4th quarter 2002	8 840	320 100	2.8
4th quarter 2003	9 540	335 425	2.8
4th quarter 2004	8 415	337 010	2.5
4th quarter 2005	6 275	327 925	1.9
mid-2006	5 490	321 970	1.7

*Source:* CBS.

309. Young people may not be out of work for longer than six months. The youth unemployment action plan stipulates that they must either return to school or find a job within this time. Local authorities apply this rule strictly, and young people are not granted social assistance as a matter of course. In Rotterdam, they receive social assistance only if they participate in a work programme with a cleaning company. Amsterdam has raised the minimum age for social assistance to 27. Instead of benefits, young people are offered a job, a work placement or training.

310. Forty-two per cent fewer young people up to the age of 21 now receive social assistance for less than six months. The fall has been less pronounced among those receiving benefits for longer than six months, at 14%.

**Social assistance claimants (WWB), end of 2004 and 2005**

Duration of benefit	Under age 21		% change	Under age 21	
	2004	2005		2004	2005
	Absolute numbers			% distribution	
Total	8 625	6 275	-27	100	100
<1 quarter	2 380	915	-62	28	15
1-<2 quarters	1 745	1 475	-15	20	24
<6 months	4 125	2 390	-42	48	38
»6 months	4 500	3 885	-14	52	62
2-<3 quarters	925	895	-3	11	14
3-<4 quarters	955	845	-12	11	13
4-<5 quarters	665	595	-11	8	9
5-<6 quarters	555	400	-28	6	6
6-<7 quarters	385	265	-31	4	4
7-<8 quarters	300	270	-10	3	4
8-<9 quarters	240	195	-19	3	3
9-<10 quarters	185	160	-14	2	3
10-<11 quarters	120	110	-8	1	2
11-<12 quarters	75	70	-7	1	1
»3 years	90	80	-11	1	1

Source: CBS.

**Children residing legally in the Netherlands**

311. On 24 January 2006 the Central Appeals Tribunal for Public Service and Social Security Matters made a decision to the effect that children residing legally in the Netherlands with no residence permit are entitled to social assistance from the government. With effect from 1 January 2007 these children are eligible for an allowance equal to the standard amount of social assistance for single young people below the age of 21. The Benefits for Specific Categories of Aliens Order has been amended to this effect. This is a specific scheme for certain categories of aliens, not general social assistance.

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

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

**Primary and secondary education**

312. Under the Compulsory Education Act (*Leerplichtwet*), children must attend school full-time between their 5th and 16th birthdays; thereafter they must continue to attend part-time until their 18th birthday. From August 2007, young people who do not have a basic qualification will be obliged to attend a programme combining work and study. Children *may* in fact attend school from their 4th birthday, and 97% actually do so.

313. Minor asylum seekers and asylum seekers' children are also obliged to go to school. They attend either a school attached to an asylum seekers' centre or a mainstream primary school. Some municipalities provide special bridging classes with intensive language teaching, which help to prepare pupils, including minor asylum seekers and asylum seekers' children, for normal classes. The role of special education is examined in Chapter VI, at B.

314. After eight years (groups) at primary school, children move on to secondary school. There are several types of secondary education (in descending order of academic emphasis): pre-university education (VWO), senior general secondary education (HAVO) and pre-vocational secondary education (VMBO). The basic knowledge and skills regarded as necessary to function properly in society have been laid down in attainment targets. Schools have a great deal of freedom in how they ensure their students achieve the required standard. Parents and students choose the kind of secondary school the child is to attend, though they usually follow the recommendation of the school. However, this recommendation is not binding, and it is schools that ultimately decided who is admitted. VMBO provides support for students who have difficulty coping with the more academic types of secondary education.

315. In the 2005/2006 academic year the government abolished school fees for the three forms of secondary education mentioned above, and for secondary vocational education up to the age of 18. Parents are no longer required to pay a contribution towards the costs of their child's education. Parents/students buy the books used in secondary schools themselves. They may be reimbursed for some of the costs, depending on the family income. School fees should therefore present no obstacles to a child's continuing in education. Schools may however ask parents for a voluntary contribution to pay for things like school trips, though this must have no impact on whether a child is admitted to the school.

316. The parents of minor children attending secondary vocational education (MBO) may also be eligible for reimbursement of costs. However, secondary vocational students aged 18 and over are liable for school fees. Students are eligible for a government grant from the age of 18. The amount they receive depends on the fees payable and the costs of study aids such as course books.

### **Higher education**

317. Institutions of higher education may set requirements regarding the suitability of applicants for places. Applications and the awarding of places are managed centrally. Higher education institutions charge tuition fees, but the student finance system makes it financially feasible for all students to take a higher qualification. Students with parents on a low income may be eligible for a supplementary allowance.

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

#### *Primary education*

318. All parents/carers are sent the national guide to primary education in the year that their child turns three. The guide contains information on the choice of school, registering your child, rights and obligations, and legislation. Every year, the Ministry of Education, Culture and

Science asks primary schools to draw the attention of pupils and parents in years 7 and 8 (the final two years of primary school) to the national guide to secondary education. "Secondary School - A guide for parents, carers and pupils" contains information on all types of secondary education.

319. Parents/carers with children at primary or secondary school can turn to the national parents' information centre for help and advice.

#### *Secondary education*

320. Most secondary schools have open days so that potential pupils and their parents can get an idea of what the school is like and what kind of teaching is provided. These are usually followed by other information sessions for parents and pupils. The move from primary to secondary school is made easier by a transition class; some schools also have special introductory activities. After the second year of basic secondary education secondary schools must advise pupils on the choices they have to make regarding their subsequent school career. The first two years of secondary school provide a wide-ranging basic educational programme to prepare pupils for the various programmes available throughout the rest of the school. It is the school's responsibility to inform pupils as to how their choice of subjects will affect their study and career prospects.

321. Various other bodies also advise pupils and teachers on children's choice of subject, school and career. A career guidance test is available. The teaching unions can provide information on the test. Most schools have ties with a teaching union, and receive funding for that purpose from the education ministry. The Secondary Education Act pays for school choice and career guidance.

#### *Vocational education*

322. Institutions of vocational education are legally obliged to offer their students careers advice and guidance. In 2005, the government made an extra €2.5 million available for the purpose. The Education Inspectorate monitors the quality of the service provided, while the government provides encouragement and support. Since 1 December 2005, an internet portal ([www.opleidingenberoep.nl](http://www.opleidingenberoep.nl)) has provided access to all information on course and career choices and the labour market for students in vocational education. They will soon also have access to a specialist telephone helpline on courses combining work and study. These new courses will allow young people who have temporarily dropped out of education to explore what they might like to do later on, rather than immediately making a specific career choice.

#### *Early childhood education*

323. Children who have a good start are able to develop better and enjoy more success in education and society at large later in life. The government therefore makes substantial investments in early years education, an essential phase in a child's development, in which any potential disadvantage can be identified and tackled at an early age. In recent years the budget for early years education has risen steadily, reaching €170 million in 2006. Until 31 July 2006, municipalities were responsible for early years education for both pre-school age and school age children. This has now changed. As of 1 August 2006, municipalities are responsible for early years education for pre-school children and schools themselves for school-age children. The

government's aim is for around 70% of children with an educational disadvantage to take part in early years education by 2010. In the longer term, the idea is that all children should receive early years education, to maximise their prospects of development. This should mean that disadvantaged children start school with considerably fewer language and developmental difficulties. Some 137,000 children aged 2 to 5, particularly certain ethnic minority children and children with poorly educated parents, are in need of this kind of help.

324. Measures will be taken to ensure that all children from this target group receive help and any (potential) developmental disadvantage is identified at a very young age. Parents will also be encouraged to allow their children to attend early years provision, such as play groups or daycare. The aim is to provide comprehensive services in collaboration with baby and toddler clinics, play groups and primary schools.

### **Preventing dropout**

325. The Dutch government intends to take stringent measures to tackle the intractable problem of early school-leavers. The Minister of Education, Culture and Science submitted a memorandum on future prospects (*Aanval op de uitval*) on the subject to the House of Representatives on 28 April 2006. The memorandum and agenda for action that accompanied it set out a target of halving the 2002 figure for early school-leavers by 2010, in an attempt to meet the European Union's Lisbon objective.

326. First, disadvantage at the early years stage will be tackled. The transitions between primary, secondary and secondary vocational education will also be eased. A good registration system, sound policies on truancy and strict enforcement of the school-leaving age will mean that youngsters cannot drop out of school unnoticed. More than half of young people who leave school early without qualifications have a job (68%). They will be encouraged to continue studying. Unemployed school dropouts will be given special treatment. They will be given "tailor-made" assistance combining work and study, provided jointly by schools, local authorities, care institutions, Centres for Work and Income, social services, the justice system and employers. The government is encouraging the establishment of one-stop shops (*Jongerenloketten*) for young people to provide them with all the help and services they need.

327. The education minister has reached agreement with the twelve regions with the highest school dropout rates on a 10% reduction in the 2006/2007 school year. Compulsory work and study will also be introduced from August 2007. Local authorities will be given powers to introduce compulsory work and study as a last resort in combating school dropout. They will be able to force young people aged 18-23 to take a job or return to education.

328. The government wants as many young people as possible to leave school with a good education. This is not always a simple matter for some secondary school pupils. Certain pupils can prepare themselves well for the outside world if given extra support, while others have much poorer prospects, in view of their abilities and their poor social and emotional development. For the former group, pre-vocational education offers learning support, while the second group have access to practical training. National criteria apply in both cases. This special provision targets pupils with both social and emotional problems, and educational disadvantages.

329. Learning support is not a separate type of education. It is in fact one of the four programmes available in pre-vocational education, and takes various different forms (depending on the programme and the individual support provided).

330. Practical training, on the other hand, is a separate type of education, catering for pupils aged between 12 and 18. Each pupil has his or her own individual development plan which serves as the basis for the education they receive at school. The behavioural problems of certain pupils are also dealt with. Ultimately, the aim is to prepare these pupils for a job in their region.

331. Some pupils cannot be catered for in a regular school environment, as their behaviour makes them too difficult to handle. Separate rebound programmes are available for these at risk pupils. They attend special “second chance schools” - partly to improve safety in their regular school - where they receive help with their problems, and later return to their own school. By 2007, rebound programmes must provide places for 4500 pupils. Efforts are also being made to improve collaboration between schools and institutions providing youth care services either in or outside school.

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

332. Although, under article 23 of the Dutch Constitution, the running of schools is left primarily 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, in agreements about discipline, school handbooks (listing parents’ and pupils’ rights and obligations) and complaints procedures that provide for an independent complaints committee.

### **Safety in schools**

333. A safe school environment is essential if children are to learn properly. Schools are primarily responsible for providing a safe environment. This includes tackling bullying. The government helps schools fulfil their responsibilities in this area.

334. A number of new measures have been introduced since 2004. For example, the government is investing in school welfare services and pupil counselling in primary and secondary schools. Problems involving pupils can be identified and tackled at an early stage. Special services are now also available for pupils with behavioural difficulties who cannot be handled by regular schools, on either a temporary or a permanent basis. Schools can also use the expertise and advisory services of the Centre for School and Safety, which runs a special anti-bullying website ([pestweb.nl](http://pestweb.nl)) and a telephone helpline. A guide to ways of developing social competence is also available.

335. The Education Inspectorate monitors safety and safety policy in schools. It also has confidential inspectors to whom schools, parents and pupils can report incidents of physical violence, severe bullying, extremism and discrimination in school. Any school that has reason to suspect that a sexual offence has been committed is obliged to report this to a confidential inspector.

### **Functional illiteracy**

336. Functional illiteracy is a problem affecting many Dutch people. The education ministry has developed a plan of action (*Van A tot Z betrokken*) to tackle the issue over the period 2006-2010. The plan involves the entire education sector, from early years education to teacher training, in the fight against functional illiteracy. It both promotes reading and encourages illiterate people who are in work to learn to read and write.

337. Three organisations are implementing the action plan: CINOP, The Reading and Writing Foundation and educational TV channel ETV.nl. They have a joint budget of 4 million euros a year for the purpose, representing a substantial increase in the funding available for tackling functional illiteracy.

338. The new action plan ensures that children aged 2 to 6 who have a language disadvantage take part in early years education, and that programmes are developed to help identify whether a child is behind in its language development at an early stage once it goes to primary school. Children can catch up in special bridging classes, where they are given intensive language teaching for a year.

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

339. The Netherlands is keen for its education system to keep pace with that of other countries. This is necessary to prepare pupils for European integration and for increasing globalisation. International comparison and knowledge acquisition can also improve the quality of our education.

340. Pupils (and teachers) in primary, secondary and vocational education are increasingly benefiting from exchanges and other types of international contact. The previous report mentioned several policy documents pertaining to this matter. Policy has since been further fleshed out in several letters to the House of Representatives, most recently the "Europe letter" ("*Europabrief*") from the minister of education (March 2006). This policy also encourages the internationalisation of curricula, with a strong focus on intercultural issues.

341. The EU Lifelong Learning programme provides a multilateral framework for internationalisation. Within the EU, the Netherlands is keen for European education systems to learn from each other (through a process of "open coordination") and supports measures to this effect. This is also in line with the agreements reached at the European Council in Lisbon (March 2000) linking the ambition of creating a knowledge-based economy with a desire to achieve greater social cohesion. The Lisbon process has given rise to EU performance comparisons - of reading skills in 15-year-olds, among other things. A progress report is produced once every two years.

342. This trend was reinforced during the Dutch presidency of the EU in 2004, and “learning from each other” has become standard practice in European cooperation. The expertise of the OECD is often called on for this purpose. UNESCO and the Council of Europe provide frameworks for the evaluation of trends in human rights education, tolerance and democratic citizenship in the Netherlands.

343. From the 2007/2008 academic year, the Netherlands intends to allow Dutch student finance to be used worldwide, rather than only on Dutch territory. Students will be entitled to student finance if they study at a higher education institution anywhere in the world, provided it meets certain standards. This should enhance the international mobility of students.

344. European cooperation is the most common form of cooperation in vocational education. In the Copenhagen Declaration (2002) and Maastricht Communiqué (2004), the EU laid down agreements for closer cooperation on vocational education and training. The Netherlands is currently putting those agreements into practice at home. Mobility is encouraged mainly via the European “Leonardo da Vinci” programme. The Netherlands also has bilateral programmes with Germany and Flanders. More and more regional training centres (ROCs) also have an internationalisation strategy and their own exchange programmes. Finally, since 2005 pupils in secondary vocational education have had limited opportunities to study abroad under the Dutch student finance scheme.

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

345. Education is also one of the key themes of Dutch development policy. The Netherlands supports developing countries that make serious education plans and actually implement them. In these efforts, the Netherlands works with other countries, international organisations and civil society organisations both at home and abroad. The UN Millennium Development Goals are a key focus of this work.

346. The Netherlands is spending more and more on education in the framework of development cooperation. In 2001, partly in response to strong public and political support for the UN’s Education For All programme and the Millennium Development Goals, the House of Representatives adopted a motion raising the basic education budget to 15% of total spending on official development cooperation in 2007. In absolute terms, this represents an increase from some 200 million euros in 2003 to around 700 million in 2007. The money is spent via bilateral and multilateral cooperation and non-governmental organisations.

347. The emphasis is on “basic education”, with scope for supporting activities in various other subsectors, such as vocational education, preschool development, HIV/AIDS education, non-formal education, education for the socially excluded and literacy programmes.

- Bilaterally, the Netherlands works with 15 countries: Bangladesh, Bolivia, Burkina Faso, Ethiopia, Indonesia, Macedonia, Mali, Mozambique, Pakistan, South Africa, Suriname, Tanzania, Uganda, Yemen and Zambia. The Netherlands provides financial support for the education sector, though the responsibility for good educational policy and its implementation rests with the national authorities, in consultation with civil society organisations and other donors. In a number of other countries, the Netherlands provides financial support for education programmes run by

other countries or organisations, in a system known as silent partnership. The Netherlands is also one of the countries that initiated and takes a leading role in the Fast Track Initiative (FTI), an international partnership involving donors and developing country government set up in 2002 to accelerate the pace of educational reform. FTI is a worldwide platform that aims to boost basic education and raise levels of funding.

- Multilaterally (via international organisations) the Netherlands supports programmes run by UNICEF, the UNESCO/International Institute for Education Planning, the International Labour Organisation and a number of regional partnerships.
- Dutch embassies encourage civil society organisations to take an active role in educational reform. Many Dutch development organisations that receive money from the development budget are actively involved in basic education. For example, the Netherlands funds an Education International programme designed to give civil society organisations, teachers' unions and teachers a say in their country's education policy.

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

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

348. Education legislation ensures that pupils can follow an uninterrupted process of development, linked to each child's individual development. Education therefore targets children's emotional and intellectual growth, and should equip them not only with knowledge but also with social, cultural and physical skills.

349. Another basic assumption of Dutch education policy is that children grow up in a multicultural society. Education therefore promotes active citizenship and social integration, ensuring children have knowledge and experience of the different backgrounds and cultures of their peers. This task is also defined in the Primary Education Act, the Expertise Centres Act and the Secondary Education Act.

350. The educational side is explicitly dealt with in the school 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.

351. Since the 1990s, secondary schools have offered more teaching in Arabic and Turkish - two of the most common ethnic minority languages. Schools may offer these languages as an exam subject if they wish.

352. 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, with a focus on teaching materials and textbooks that combat gender stereotyping. The attainment targets devote specific attention to equal opportunities for girls.

353. One of the aims of the attainment targets for history and social studies is to enable pupils to form an independent and balanced judgment, based on their own values and those of others. Geography teaching, too, devotes considerable attention to intercultural issues. Primary schools

are required to teach children about different religions and belief systems. Intercultural education in many schools also covers subjects such as peace and international cooperation. Science and environmental education and biology teach children respect for the environment and a responsible attitude to sexuality and health.

354. In the province of Friesland the Frisian language is taught in primary schools, in special schools and in the initial years of secondary school. The lessons are in principle intended for all pupils, so the syllabus takes account of pupils from both Frisian-speaking and non-Frisian-speaking backgrounds. Differentiated attainment targets are set for Frisian at four levels, for Frisian-speaking and non-Frisian-speaking pupils in primary schools and basic secondary education.

355. Pupils may take Frisian as a final examination subject at the end of secondary school, if their school avails itself of the statutory freedom to include Frisian as optional subject in the second stage of pre-university and senior general secondary education. Frisian can also be used as the language of instruction in daycare, primary and secondary education.

### **Human rights education**

356. The Dutch government expects the education sector to live up to its responsibility towards society, deciding for itself how teaching should be organised and structured. A government that interfered with the way in which schools fulfil this responsibility would be incompatible with this philosophy. Schools and school boards are given the freedom to live up to their responsibilities, provided they fulfil certain tasks.

357. The government guides primary and secondary education by means of attainment targets, which are worded in general terms. In the “Discovering yourself and the world” subject area, the attainment targets relate directly to good citizenship. For example, pupils learn roughly how the Dutch state and European Union work, and the role of citizens. They also learn to show respect for generally accepted values.

358. Since 1 February 2006 schools have been legally obliged to promote citizenship and social cohesion. The government has commissioned guidelines to help schools in this task (*Een basis voor burgerschap*, Stichting Leerplanontwikkeling, Enschede, March 2006). The guidelines explicitly mention human rights as an integral part of citizenship education.

359. The attainment targets for citizenship and social cohesion are designed to ensure that more people from all parts of society learn to participate. They make clear to all schools what citizenship is about. Since schools help form the basis for good citizenship, it is important that they think about how to teach it. Citizenship is not the preserve of a single individual or body, it belongs to us all. “Discovering yourself and the world” covers matters such as interaction with other people, solving problems and attributing meaning. The attainment targets help ensure that children learn what they need to know about citizenship.

360. Dutch education policy is affected by international bodies and legislation. There are no internationally binding regulations on education. However, countries do use the open method of coordination, based on exchange and best practice, to learn from each other and grow closer. International declarations and conventions such as the Universal Declaration of Human Rights

and the Convention on the Rights of the Child guide this process, of course. Active citizenship and social integration also involve combating discrimination, and require that freedom to shape one's own identity, as well as freedom of religion and belief, and freedom of expression, are guaranteed. Young people must also have a say on matters that affect them. Education for democratic citizenship is strongly encouraged at European level. The Education for Democratic Citizenship project has been running for many years, and 2005 was declared the Year of Active Citizenship Through Education.

361. Citizenship featured in the debate that the Ministry of Education, Culture and Science initiated during the Netherlands' presidency of the EU in 2004. The debate focused on citizenship education in Europe, following on from one of the aims of the Portuguese presidency in 2000: to underline the importance of active citizenship and social participation. A study entitled "Citizenship - Made in Europe: living together starts at school" was published in support of the debate. It calls for the social function of education, and the importance of cohesion and shared values, to be underlined.

362. The present government is drawing up an action plan on human rights education in collaboration with non-governmental organisations and other stakeholders, in order to implement a motion adopted by parliament, and as part of the UN's World Programme for Human Rights Education. The action plan will both catalogue current activities in this area, and identify any gaps that need to be filled.

### **Highly gifted pupils**

363. The Ministry of Education, Culture and Science is encouraging the building of expertise, by various means, to enable highly gifted pupils to be identified and assisted.

364. It is no simple task for schools to do this alongside their regular activities, as has been shown by the experiences of various networks, the information centre for highly gifted pupils in secondary education (*Informatiepunt Hoogbegaafdheid Voortgezet Onderwijs, Christelijk Pedagogisch Studiecentrum*) and three education ministry-funded pilot projects in schools. Proper provision for these children involves much more, and the issues surrounding care, teaching methods and the organisation of teaching are complex. A structural approach has been in place since 2003. Each region must have a school with expertise in teaching highly gifted youngsters. A start was therefore made in 2004 on the creation of a comprehensive national network of schools with extra provision and special teaching for highly gifted pupils (*begaafdheidsprofiel scholen*). They can provide help and advice on how to deal with highly gifted pupils at the request of other schools in the region. The project is being implemented in stages. The first six schools aspiring to this status were launched in September 2004; a further nine were added in September 2005, and the final batch of specialist schools will be designated in August 2006.

365. The aim of the project is that, by 2009, on the basis of quality criteria currently under development:

- These specialist schools should be identifiable as institutions that provide high-quality education and guidance to highly gifted pupils

- There should be national coverage (approx. 25 schools), to guarantee accessibility for parents and pupils
- Continuity should be guaranteed

### **Vocational education**

366. The government sets the attainment targets for each vocational qualification, on the basis of proposals from representatives of the education sector and the private sector. This ensures that vocational education complies with the requirements of article 29 of the Convention.

### **Freedom of education**

367. Article 23 of the Constitution ensures that the Netherlands complies with the provisions of article 29, paragraph 2 of the Convention, since the freedom of education guaranteed by this article makes it possible to set up schools and provide education. To qualify for funding, schools must meet certain conditions, including a minimum number of pupils, competent teaching staff and a proper qualification structure. Religious or ideological groups may 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%) are private schools. Similar freedoms exist regarding the provision of religious education.

368. In practical terms, there is some segregation in the Dutch education system. Children from certain population groups tend to go to the same school. This is due largely to the segregation that exists in neighbourhoods, where people from the same population group tend to congregate. Parents in the Netherlands may send their children to the primary school of their choice, and the vast majority opt for their neighbourhood school.

369. Partly in response to the Committee's recommendation 31, the government is attempting to ensure more mixed schools are created, and has taken several measures to this effect. From the 2006/2007 school year, primary and secondary schools must hold annual consultations with the local authority to decide where steps can be taken to combat segregation and promote integration. Local authorities and schools agree the contribution schools (and the local authority) are to make. The Ministry of Education, Culture and Science helps local authorities, schools and parents to put the agreed measures into effect. Possibilities include information material for parents, a website to act as a forum where parents can exchange ideas, examples of good practice for local authorities and schools, and research measuring the effects of segregation on schools.

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

### **School hours and leisure**

370. In the first two years of secondary school and in the third year of senior general secondary education (HAVO)/pre-university education (VWO), schools must provide at least 1,040 hours of teaching. In the upper grades, at least 1,000 hours of teaching are provided each year, and in the final examination year, 700 hours. Schools may set their own timetable according to their own ideas about education, within certain boundaries.

371. Schools must provide primary school pupils the opportunity to eat at school during the lunch break. From 1 August 2007 primary schools will be obliged to offer out-of-school care between 7.30 and 18.30, or provide facilities for other parties to do so, under certain conditions. Schools may offer all kinds of after-school activities, in some cases in collaboration with parents. Sports clubs, music societies, cultural institutions and other organisations are also involved. Such activities, which are available at many schools, are a good way of offering children something extra out of school hours.

372. After-school activities are not governed by legislation. This gives parents and schools maximum choice and flexibility, and removes any unnecessary administrative burden. Schools and local authorities may look at how such activities tie in with out-of-school care, to provide comprehensive facilities and wrap-around care that is attractive to children. This applies particularly to sport. Central government is in negotiation with national education, sport and daycare umbrella organisations on ways of further improving links between sport at school and after-school care.

373. Secondary school pupils receive an average of 7 to 10 hours' homework each week. The study burden in the upper grades of senior school (HAVO/VWO) is an estimated 40 hours a week, including sport and cultural activities that form part of the curriculum.

374. These days, young people spend less of their free time on collective activities in a public setting (on the street or playing fields) and more on individual activities in a private setting. Young people also have less leisure time than they did ten years ago. A young person at school has an average of 40 hours' free time each week. 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 organised by youth services.

## **Culture**

375. The Ministry of Education, Culture and Science is keen for all school-age children to be exposed to culture at school. Its Culture and School project aims to encourage more teaching about and involving culture. To achieve this, the Ministry is working with local and provincial authorities, cultural institutions and educational organisations. Central government focuses on facilities for schools, teachers, pupils and cultural institutions. Many cultural institutions are specifically involvement in cultural education.

376. The Ministry is investing extra funding in this project, rising from 4 million euros in 2004 to 22 million in 2007. The money is being spent in various ways:

- Encouraging schools to set out their vision of cultural education and incorporate it into school policy
- Encouraging schools and cultural institutions to work together
- Primary schools may apply for €10.90 per pupil per year for cultural education activities

- Secondary school pupils receive vouchers and a young person's cultural discount (CJP) which allows them to participate in cultural activities at a reduced price. Pupils in the first stage of secondary education receive €5.70 a year (per pupil) and pupils in the upper grades a one-off payment of €22.50 (per pupil) for culture and the arts
- Cultural institutions and schools can jointly apply for funding for cultural education projects under the cultural education scheme
- Agreements have been reached with local and provincial authorities concerning support for cultural education in schools
- Art and culture are also important elements of community schools (partnerships between schools and the local community, generally providing education, sport, care and cultural activities), boosting the relationship between cultural education at school and out of school

## Sport

377. Various activities were organised in 2004 as part of the European Year of Education through Sport. The focus was on young people's participation in a range of sporting activities. Following on from the success of this special year, the government stepped up the collaboration between schools and sporting organisations with the establishment of the School and Sport Alliance (*Alliantie School en Sport*). This venture, involving the Ministry of Education, Culture and Science, the Ministry of Health, Welfare and Sport and National Olympic Committee\*National Sports Federation (NOC\*NSF), focuses mainly on schools for primary, secondary and vocational education and on sports clubs. The idea is that by 2010 all the pupils at 90% of schools will be able to take part in sports on a daily basis, both in and outside school hours. Other schools tailor their teaching programme to the sporting ambitions and competition schedules of talented young sportsmen and women.

378. 2004 also saw the launch of the neighbourhood, education and sport incentive scheme (known in Dutch by the acronym BOS, *Buurt Onderwijs en Sport*). The government is using sporting activities targeted at particular neighbourhoods to reduce the disadvantage suffered by some young people in terms of health, wellbeing, education, training, sport and exercise. The scheme is also designed to tackle the nuisance caused by some young people. Collaboration between schools, community organisations and sports clubs is key.

379. The Minister for Immigration and Integration believes that sport is an excellent way of helping young immigrants to establish themselves in Dutch society. The initial results of a study by the Netherlands Organisation for Scientific Research[nwo.nl] (NWO) into the role and significance of sports clubs in a multicultural society are promising. Sports clubs provide a setting for important learning processes, where young people can learn how to interact with others, make contacts and resolve conflicts.

380. A special programme (“*Meedoen allochtone jeugd door sport*”) is designed to help ethnic minority youngsters and their parents with bonding, parenting and integration through participation in sport. The programme is intended to encourage ethnic minority youngsters to join sports clubs. This is not only good for integration, it will also raise the numbers of ethnic minority youngsters playing sports, helping them catch up with other sectors of the population.

381. The Youth Sport Fund (*Jeugdsportfonds*) encourages disadvantaged children to join sports clubs. It pays the membership fee and buys kit and equipment for any child who is keen to take up a sport, but whose parents cannot afford it. The Fund targets schools, youth care services and social welfare institutions rather than parents or children. The government has helped put the Youth Sport Fund concept into practice in various locations throughout the country.

382. Sexual harassment and other abuses of power are known to occur at swimming pools. Over the past ten years both sporting organisations and swimming pools have made attempts to tackle this problem, with the support of the Ministry of Health, Welfare and Sport (VWS). They have invested in a comprehensive system of measures and facilities to prevent such incidents.

### **Space for the young**

383. Local authorities are responsible for the local environment in which people live. Central government tries to encourage them in this task. A recent policy letter on outdoor playing areas and a competition for child-friendly projects in public spaces are just two examples of the government’s efforts in this area. Local authorities and organisations are being exhorted to think about how the living environment can be modified to give children more room to develop.

384. Central government is keen for local authorities to take the interests of children into account in developing and zoning the living environment. It has drawn up a special handbook on play areas (*Handboek Speelruimtebeleid*) with the Child Friendly Cities network. It offers guidance to local authorities seeking to introduce a comprehensive policy on play areas, or to improve their existing policy. The 70 competition entries have also been published in a booklet to inspire others.

385. For the handbook and booklet, see [www.kindvriendelijkesteden.nl](http://www.kindvriendelijkesteden.nl).

## **VIII. SPECIAL PROTECTION MEASURES**

### **A. Children in emergency situations**

#### **1. Articles 22 and 29 (Refugee children)**

386. The Committee made a number of recommendations which are examined below.

387. Firstly: the Aliens Act 2000 has been evaluated, and the results of the evaluation are being debated in parliament. The evaluation and a written transcript of the proceedings in parliament can be sent to the Committee.

388. Secondly: the definition of unaccompanied minor alien (*Alleenstaande minderjarige vreemdeling*, AMV) was amended on 20 July 2004. Prior to that date, a minor asylum seeker was not regarded as unaccompanied if it was established that an adult relative (up to the third degree of consanguinity, whether residing in the Netherlands legally or not) was present in the country. That relative was regarded as responsible for the care and supervision of the minor child. The matter of whether the minor child was eligible for refugee status was of course considered. The minor child was not eligible for leave to remain under the special policy on unaccompanied minor asylum seekers (regular grounds for permission to stay in the country, additional to asylum policy).

389. The amendment means that any AMV who is not accompanied by a parent or legal guardian is eligible for special leave to remain if it is found that he or she is not eligible for refugee status. Minor asylum seekers whose application for leave to remain had been rejected before 20 July 2004 because they had relatives in the Netherlands could submit a new application. All such applications have been granted, and the minor children in question have now been given permission to remain in the country. The new definition of an unaccompanied minor asylum seeker is also in line with international standards.

390. Thirdly: since mid-2003 new asylum applications from AMVs below the age of 12 have no longer been subject to the 48-hour asylum procedure. They are now handled with great care and attention under the “examination centre” procedure, by officials specially trained in interviewing minors and deciding on their applications.

391. The asylum applications of other minor asylum seekers (aged 12 or over) - whether unaccompanied or not - are dealt with under the 48-hour procedure.

392. Unaccompanied minors are covered by the special policy described above if their application is rejected. Judgments handed down by the European Court of Human Rights in Strasbourg, for example, and recent guidelines on minimum standards for asylum procedures within the EU suggest that handling the asylum applications of minor children under the 48-hour procedure is in line with international standards.

393. Complex asylum applications are dealt with further under the longer examination centre procedure, which may take no longer than six months.

### **Further developments since the previous report**

#### *Adequate care*

394. In 2001 the Netherlands launched a reception centre project in Mulemba (Angola) with a European organisation for the care of unaccompanied minor asylum seekers and local NGOs concerned with the protection of minors ([www.mulemba.org](http://www.mulemba.org)). The project provides care in Angola for minor Angolan asylum seekers whose asylum application in the Netherlands has been unsuccessful. A “children’s village” provides them with care, food, education and health care until they reach the age of majority. Teaching focuses on practical skills that will help them find

work when they reach adulthood. To date, all the AMVs who during their asylum procedure had declared they were orphans have been claimed from the village by their parents. A similar project was launched in the Democratic Republic of Congo in 2005.

*Examination to establish age*

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

396. The Youth Care Act entered into force in 2005. Under the new legislation Nidos - an organisation that cares for young asylum seekers - remains responsible for the guardianship of AMVs who have submitted an asylum application. The organisation also deals with care orders for minors who have submitted an application, or on whose behalf an application has been submitted, who are residing in a Central Reception Organisation for Asylum Seekers (*Centraal Orgaan Opvang Asielzoekers*, COA) reception centre.

397. In mid-2005 the Youth Care Inspectorate launched a study of AMVs at five reception centres run by the COA and the affiliated regional offices of care organisation Nidos. The study looked at how AMVs are prepared for return to their country of origin by providing them with a safe environment, good education and competence-based guidance. The government is implementing the Inspectorate's recommendations, particularly:

- Ensuring stability and continuity in guidance and accommodation
- Devoting more attention to the views of the young asylum seekers
- Providing education that is more in line with their needs

398. The government is to make new arrangements for the care of unaccompanied minor asylum seekers, partly in response to an evaluation of the reception of AMVs at campus sites. The new arrangements are based on care in foster families for AMVs under 12, and at COA reception centres for older children.

## **2. Article 38 (Children in armed conflicts)**

399. The Netherlands is active in various ways on behalf of children in armed conflicts. The process of ratifying the Optional Protocol (OP) on the involvement of children in armed conflict is almost complete. The OP is currently before the Senate, and the ratification process will be

rounded off in the near future. The OP raises the minimum age for forced recruitment from 15 to 18. The Dutch government will thereby be obliged to take all possible measures to prevent the involvement of minors in armed conflicts as part of the armed forces.

400. The Netherlands is also funding a number of projects targeting children in armed conflicts. For example, it is supporting a multi-year UNICEF project in Uganda that aims to provide vocational training in camps for children caught up in the conflict. The Netherlands is contributing a total of 1.3 million euros to the project.

401. The Netherlands' general contribution to War Child and UNICEF also benefits this group. UNICEF is in continuous dialogue with governments and military commanders, bringing the issue of child soldiers to their attention. Via its Strategic Human Rights Facility the Netherlands is funding a project in El Salvador to find children who have disappeared as a result of conflict. The country is also contributing to a Colombian demobilisation and reintegration project for young people. It also pays a special contribution to the UN Special Representative for Children and Armed Conflict.

402. Finally, the Netherlands ensures that EU directives concerning children in armed conflict are implemented. During the Dutch EU presidency in 2004, the implementation of these directives was one of the Netherlands' key focuses in the field of human rights. The plan of action drawn up in this context assumes that EU member states and/or the European Commission will coordinate and, if necessary, supplement the EU's efforts in a number of countries where the issue of children in armed conflict is particularly relevant. The plan focuses on efforts in Colombia and Uganda, among other places, through the projects mentioned above.

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

### **1. Article 40 (The administration of juvenile justice)**

#### *Aims and principles of policy*

403. The Dutch government's aim is to prevent young people from dropping out of society and resorting to crime. Young people who have already committed a crime must not do so again and become involved in more serious crime. The principles and objectives of the strategy for tackling youth crime are set out in the youth justice programme 2003-2006 (*Jeugd terecht*), which forms part of the government's public safety programme. The measures in this programme aim to allow early intervention, expedite and improve the disposal of cases, enhance the effectiveness of sanctions, provide immediate after-care and offer an approach tailored to each young person's situation.

#### *Early intervention*

404. The Dutch government hopes to prevent young people from descending deeper into delinquent behaviour by focusing on the reduction of truanting and school dropout rates. It is

also taking measures to improve young people's upbringing, with parenting support playing a key role, particularly for parents of children who have already come into contact with the police and criminal justice system or have an increased risk of doing so.

#### *Quality and speed of disposal*

405. Criminal behaviour by young people should be followed by a swift and appropriate response from the criminal justice system. A large proportion of the offences committed by young people are therefore discussed in a case consultation (*justitieel casusoverleg*) between the police, the Public Prosecution Service and the Child Protection Board.

406. The aim of the case consultation is to allow swift and appropriate action to be taken in the case of the young person in question on the basis of the information available to the participants. Such case consultations were introduced nationwide in 2003, and 68 now exist. A national evaluation has found that case consultations play an important role in the juvenile criminal justice system. They raise the quality of case disposal and coordination between the different bodies. The composition and methods of the consultations are being further standardised. In 2007, a national information system will become available in support of the consultations.

407. Standards have been drawn up to ensure criminal cases against juveniles are disposed of swiftly. They define throughput times for all the organisations involved, particularly the police, the Public Prosecution Service, the judiciary, the Child Protection Board and the HALT offices for alternative sanctions. For example, no more than six months may elapse between the first interview by police and the judgment of the court at first instance. Performance figures are published for all to see in national factsheets. Over the past three years, the parties involved have considerably reduced their throughput times, and in 2005 the norm was achieved in an average of 58% of cases. However, throughput times will remain a focus of attention until all partners in the system have achieved all the norms.

#### *Effective punishment*

408. Effective intervention gives young people who get into trouble with the law better prospects of reintegrating into society. The government has set up a special committee (*Erkenningscommissie Gedragsinterventies Justitie*) to establish whether behavioural interventions<sup>7</sup> by the criminal justice system are sufficiently effective (in terms of reducing or preventing repeat offending). The committee reviews the effectiveness of the programmes that young people attend under the HALT system, as part of alternative sanctions, during pretrial detention, in detention or as part of youth probation or after-care. Effective programmes will be listed in a handbook and approval by the committee will eventually become a precondition for government funding. (For after-care, see under art. 37, b, c and d.)

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<sup>7</sup> A behavioural intervention is a structured methodological programme of actions intended to influence a person's behaviour.

*HALT*

409. The possibility of giving young people an alternative sanction - known as the HALT system - has existed in the Netherlands for the past 25 years. These sanctions, implemented by HALT offices, are intended for young people aged between 12 and 18 who have committed a minor offence. A young person who is arrested by the police for such an offence can avoid acquiring a criminal record with a referral to a HALT office.

410. The HALT penalty makes young people aware of their behaviour and gives them the opportunity to repair any damage. The process involves discussion, work or learning assignments and - if relevant - an opportunity to apologise to the victim and repair the damage. The idea is that confronting young people with the consequences of their actions and offering them alternative types of behaviour can prevent them from committing a crime again in the future. HALT interventions are also used to identify underlying problems, and refer the young person for help where necessary.

411. In spring 2006 the Ministry of Justice's Research and Documentation Centre (WODC) commissioned the Beke consultancy and research group to conduct a national survey of the effects of HALT. This study ("*Halt: Het Alternatief? De effecten van Halt beschreven*") showed that, in most cases, the HALT penalty does not lead to a reduction in the frequency and seriousness of the offences youngsters commit.

412. The Ministry of Justice and HALT Nederland are currently investigating possible improvements, in consultation with experts and other partners in the criminal justice system. Clearer information is needed about which HALT penalties are effective for which crimes and which youngsters in order to reduce repeat offending. This will result in changes to the screening method and to the HALT penalties.

**Reservation to article 40 of the Convention**

413. The Netherlands has entered a reservation to article 40. The government remains of the opinion that a court must be able to deal with non-serious offences without legal counsel for the suspect. This would be the case with minor misdemeanours such as disturbance of the peace, conduct conducive to a breach of the peace, cycling without lights and the like, where proceedings must not be delayed while the suspect arranges legal counsel. A suspect may always of course take along his own lawyer or ask for a lawyer to be assigned to him. In such cases, the particular circumstances are considered, and the court may decide to assign legal counsel.

**2. Article 37 b-d (Children deprived of their liberty)****Legal framework: criminal law***Principles*

414. When handling juvenile criminal cases the Public Prosecution Service operates on the principle that an alternative sanction in the community is better than imprisonment (the motto being "alternative sanction, unless"). Any sentence or order depriving a young person of their liberty will be implemented in an institution with an educational environment, where they will be provided with training and prepared for their return to society.

### *Rehabilitation*

415. There has recently been a growing awareness that, when a criminal offence has been committed, it is not only the young offender who requires attention, but also his or her family and social network. Parents are therefore increasingly being drawn into efforts to tackle young people's behaviour, in the event both of detention and (sometimes intensive) guidance and supervision in the community. Pilot projects have been launched involving the use of multisystem therapy and family first therapy. A great deal of attention is also paid to after-care. Good guidance and supervision, provided by the young offenders' institutions in collaboration with the youth probation service, is designed to prevent a relapse after the shock of a custodial sentence. Other public bodies such as local and provincial authorities are doing more to provide young offenders returning to the community with a firm structure. From 2007, every young person leaving a young offenders' institution will receive after-care.

### *Trends in numbers*

416. Recent years have seen a rise in the number of young people being remanded by the criminal courts to young offenders' institutions. The police and the criminal justice system are focusing more and more on youth crime, and in doing so are identifying more and more crimes of violence. In the vast majority of cases, juveniles are remanded in pre-trial detention and are then forced to undergo supervision and guidance in the community after their case has been suspended or final judgment has been passed.<sup>8</sup>

417. Habitual juvenile offenders are a new focus of attention. In such cases, the problem is not so much the seriousness of the offence as the number of offences the young person commits. The Public Prosecution Service pursues a consistent policy of prosecuting habitual juvenile offenders<sup>9</sup> to prevent them from descending into a life of crime. Young offenders' institutions and the youth probation service together provide targeted programmes lasting three to six months, both inside and outside the institution, for such young offenders.

418. The trend in the number of young people being sent for treatment to a young offenders' institution (*Pij-maatregel*) is causing concern. The period in the institution often has to be extended, and those providing the treatment doubt whether some of the young people they deal with will ever be able to return safely to society. In other words: without the likelihood of a serious relapse into criminal behaviour. Many young offenders have reached the age of majority

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<sup>8</sup> In 2005, 3,172 young people were placed in pre-trial detention. Three-quarters of them returned home after an average of 36 days. Of the total number, 38 were subsequently placed in youth detention, and 64 were sent to a young offenders' institution for treatment.

<sup>9</sup> Habitual juvenile offender: a young person aged between 12 and 17 against whom at least two cases have been brought over the past three years, leading to criminal proceedings, who again commits an offence (serious offence).

by the time they are released. In a letter of 10 July 2006, the Minister of Justice proposed to the House of Representatives a number of improvements, including smaller groups, better-trained staff and more youth psychiatrists. The minister also intends to introduce another (consecutive) form of compulsory treatment for young offenders who still pose a major risk after their period of treatment in a young offenders' institution.

### *Cutbacks*

419. In recent years, as a result of the financial situation in the Netherlands, young offenders' institutions have had to introduce major cutbacks. The standard group size for treatment has therefore been raised from ten to twelve. Larger group sizes have implications for the amount of attention staff can devote to individual youngsters. Group sizes for young offenders sent for treatment to a young offenders' institution will therefore be reduced.

420. The introduction of cell sharing was also considered as a way of saving money. It would be permitted only on condition that the safety of the young offender and the staff could not reasonably be expected to be compromised. Young people serving a sentence for a sexual offence or serious violent offence would be excluded from the outset. The young offender would also have to have been in the institution for some time, so that his or her behaviour was known. All youngsters considered for cell sharing would be screened by a multidisciplinary team, and inmates would be placed in shared cells only on a voluntary basis. Three small pilot projects were launched to experiment with cell sharing. However, it proved difficult to find suitable combinations of inmates, and a number of incidents occurred. After an evaluation, and taking into account developments in other sectors and countries, it was decided that the pilot projects should be terminated, and that cell sharing should not be introduced at this stage for young offenders as a way of saving money.

### *Trends in capacity*

421. The number of treatment places in young offenders' institutions has grown in recent years.

Date	Places	Treatment places	Habitual offenders	Total
1 January 2002	992	1 142	-	2 134
1 January 2003	1 050	1 274	-	2 324
1 January 2004	1 115	1 332	-	2 447
1 January 2005	1 170	1 419	-	2 589
1 January 2006	1 107	1 445	44	2 596

(NB: The table above shows the capacity available for young people placed in young offenders' institutions under both criminal and civil law. For policy developments relating to placements under civil law, see art. 18, para. 2).

422. Despite this increase in capacity, young offenders sometimes have to wait a long time for a place in an institution. This applies especially to youngsters with certain problems, such as slight mental disabilities, psychiatric problems or sexual problems. In a letter of 10 July 2006 the Minister of Justice proposed improvements to the implementation of treatment orders in young offenders' institutions to enable children to be placed more swiftly. The measures relate both to improving work processes and to the purchasing of specialist services.

### **Legal framework: aliens legislation**

423. Aliens may be placed in detention as a last resort, after all the interests have been carefully weighed up. Given the vulnerability of this group, it is the policy of the Dutch government to prevent the detention of minor aliens as far as possible.

424. In the Netherlands, unaccompanied minor aliens below the age of 12 are not placed in detention. In recent years, the policy has been that, in principle, only the parents of accompanied minors should be detained. They are offered the opportunity for their children to be accommodated elsewhere, such as with relatives or friends.

425. In June 2006 the Minister for Immigration and Integration wrote a letter to the House of Representatives detailing a new policy geared towards reducing the likelihood of minor aliens being placed in detention. One important element of this policy is the creation of special accommodation where families who are actively cooperating with their repatriation may stay for twelve weeks after their right to a place in a reception centre ends to allow them to arrange their departure from the Netherlands.<sup>10</sup> There would be no need to place them in detention pending deportation during those twelve weeks. In cases where detention nevertheless proved necessary, families with two parents would be offered the option of only one of the parents being detained. The old policy allowing parents to accommodate their children elsewhere remains in force.

426. In cases where children nevertheless end up in detention, their specific needs are taken into account as far as possible. For instance, parents with minor children are in principle detained in an institution subject to the more lenient Border Holding Area Regime Regulations, where facilities suitable for children are available, including teaching, toys and educational material.

427. If, despite the above measures, children are placed in detention, this must by definition last for as short a time as possible. The efforts of all involved must from the outset be geared towards ending the situation as swiftly as possible. The courts keep a firm eye on matters. The longer the situation persists, the more heavily the interests of the minor alien will weigh in court.

428. The possibility of accommodating unaccompanied minor asylum seekers in special secure institutions that offer an educational environment is being considered. Such institutions would provide teaching and enough space for children to play and take part in sports, in line with the Convention on the Rights of the Child.

429. One alarming development in this context concerns human trafficking. Some young people gain access to the Netherlands claiming asylum and then disappear. The government is attempting to address this problem in collaboration with all parties concerned, including the police and criminal justice system and the introduction of restricted and secure reception facilities is being considered.

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<sup>10</sup> This applies to asylum seekers whose first asylum application was submitted under the current Aliens Act. Families who submitted their first asylum application under the old Aliens Act already have access to arrangements facilitating their return in the form of placement in a departure centre.

## **Article 39 (Special care for child victims of crime)**

### **Victim support**

430. Victim support (*Slachtofferhulp Nederland*) helps people - including young people - who have been the victim of a crime or traffic accident, giving practical and legal advice and emotional support. Staff inform victims about the criminal justice process and can counsel them as they go through it. If necessary, they will refer them to other experts for help. In recent years, victim support has radically improved its services for child victims of crime. The organisation's voluntary and paid staff have been given training to improve their skills in providing support for young people who have been the victim of violence. Victim support is also working on raising the number of young victims it reaches, introducing services such as online support.

### **Victim impact statements**

431. Since 1 January 2005, victims of serious crimes have had the right to make a statement in court on the impact the crime has had on them. The statement may also be submitted in writing. Children aged twelve and over also have the right to make a victim impact statement, as do children under twelve who are regarded as capable of making a reasonable assessment of their own interests.

### **Victim-offender meetings**

432. The Minister of Justice has decided to introduce the option of arranging meetings between victims and offenders throughout the country. An independent organisation "*Stichting Slachtoffer in Beeld*" will be responsible for organising the meetings from January 2007.

433. Over the past two years experiments with victim-offender meetings have been conducted on behalf of the Ministry. Both adults and juveniles (offenders and victims) have been involved. The results show that such meetings can help victims come to terms with what has happened to them. A successful meeting can also have a positive impact on offenders' behaviour, and help prevent them from committing further crimes. Such meetings have been found to give young offenders a clear insight into the consequences of their behaviour.

434. Victims may request a meeting with the offender, in addition to the decision of the court. A single uniform method is used. Victim-offender meetings will be introduced nationwide on the following basis:

- Such meetings will take place only on a voluntary basis
- Such meetings may take place only in addition to criminal proceedings
- In cases where criminal proceedings are yet to begin, a report of the meeting may be submitted to the public prosecutor, who may take it into account in his or her closing speech

435. The Netherlands thereby complies with the EU Framework Decision on the Standing of Victims in Criminal Proceedings,<sup>11</sup> which obliges member states to encourage mediation between victims and offenders. A provision to comply with this obligation has been incorporated into a bill designed to strengthen the position of victims in criminal proceedings.

### **Corrective education**

436. Young offenders' institutions also consider the victim. They are currently investigating the best ways of incorporating corrective education (empathy training and confrontation with criminal behaviour, if possible a meeting with the victim) into their daily schedule. Pilot projects are running in four institutions up to the beginning of January 2007. The University of Utrecht will analyse the results, and report on the findings in spring 2007.

## **C. Exploitation of children**

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

#### **Legislation**

437. Dutch legislation on child labour includes strict rules pertaining to child labour (< age 16) and youth labour (aged 16 and 17). Rules on child and youth labour are laid down in the Working Hours Act and the Working Conditions Decree. Further rules are set out in the Detailed Child Labour Regulations, the policy rules pertaining to exceptions to the ban on child labour, the Decree of 15 January 1997 setting out rules for the benefit of safety, health and welfare at work (Working Conditions Decree) and the Working Conditions Order of 7 March 1997. Young people aged 16 and 17 may work, although the regulations on work performed by young people include an absolute ban on a number of activities for people under the age of 19, and stipulates that certain other activities may be performed only under supervision. The Working Hours Act stipulates a ban on child labour that applies to all children up to the age of 15. Children in this age group may work only by way of exception, and subject to strict conditions.

438. The Dutch government is a great proponent of corporate social responsibility. In 2000 the then government asked the Social and Economic Council of the Netherlands to issue recommendations on the role of the government, social partners and civil society institutions in corporate social responsibility. The Ministry of Social Affairs and Employment emphasises the international dimension, with a key focus on the fundamental international labour standards of the ILO. One such standard is the ban on child labour (enshrined in ILO Conventions 138 and 182); others pertain to forced labour, discrimination and working conditions.

439. In mid-2000 the OECD set out new guidelines for multinational companies. These recommendations make it clear what governments expect from companies. They also refer to the fundamental international labour standards. All 30 OECD member states, plus non-member Chile, for example, support these guidelines. The National Contact Point fosters debate on the issue and application of the guidelines. Any individual or company that believes that a company

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<sup>11</sup> Council Framework Decision, 15 March 2001 (2001/220/JHA).

is not complying with the guidelines (manufacturing a product using child labour, for example) can bring the case to the attention of the National Contact Point. The NCP will then help find a solution. The NCP is currently the most concrete manifestation of corporate responsibility.

440. The Netherlands has ratified ILO Conventions 138 (minimum age) and 182 (banning the worst forms of child labour).

441. In 2001 the government complied with the most important obligation under Convention 182, drafting a programme of action to combat child labour. The programme does not so much set out new rules, since Dutch law already includes an adequate ban on the worst forms of child labour. It is above all an attempt to prevent children ending up in child labour, and focuses on enforcing the existing rules. The programme of action - which is currently being updated - also lists the Netherlands' international activities in this area. The Netherlands is due to report on Convention 182 again in 2007.

### **Enforcement policy**

442. The Labour Inspectorate, part of the Ministry of Social Affairs and Employment's Social Information and Inspection Service, monitors compliance with the laws on child and youth labour. On discovering a serious violation of the law, the Labour Inspectorate will draw up a report or impose an administrative fine. In the event of a less serious violation, the offender is first issued a warning. If the Labour Inspectorate finds children under 12 working, an official report is immediately drawn up.

443. Every year the Labour Inspectorate conducts studies of compliance with the provisions of the Working Hours Act and the Working Conditions Act pertaining to children and young people. Compliance with the law is fostered in other ways too. The Ministry of Social Affairs and Employment has opened a new youth website focusing on the legislation applying to young people.

### **Estimate of the number of young working people aged 13-18**

444. The precise number of young people who work is not known. The National Survey of Schoolchildren (*Nationaal Scholierenonderzoek*) 2004/2005 conducted by the National Institute for Information on Consumer Budgets (NIBUD) does give an indication, however. Over 5,500 schoolchildren from all different types of school took part in the survey.

445. It found that almost half of all schoolchildren (44%) have a job. Fewer - almost a quarter (24%) - have only a holiday job. Schoolchildren do all kinds of work, from babysitting and car washing to payroll work in supermarkets, cafes etc.

446. The most common jobs done by schoolchildren during the normal school week are:

- Delivering newspapers or advertising material
- Shop work
- Babysitting

**Table 1**

**Percentage of schoolchildren with a job, by gender**

	Boy %	Girl %	Total %
Regular job	46	42	44
Holiday job	26	24	25

**Table 2**

**Percentage with regular job, by age, in 2004**

Aged 12	17%
Aged 13	29%
Aged 14	38%
Aged 15	52%
Aged 16	66%
Aged 17	73%
Aged 18	73%

447. During the first four years, the proportion of schoolchildren with a job outside school hours rises. Another 8% also have a holiday job. The figures are higher for 18-year-olds, almost three-quarters of whom have a regular job, while over half also have a holiday job.

448. Schoolchildren work an average of 7.1 hours a week, a figure that applies to both boys and girls. The number of hours worked ranges from 4.3 for 13-year-olds to 9.4 for 18-year-olds.

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

### **General**

449. Dutch policy on drugs is aimed at preventing and limiting drug-related risks to users, their family and social network, and society. The government suppresses the demand for drugs and reduces the risks of drug use by pursuing a professional care and prevention policy. Dutch drugs policy also focuses on maintaining public order and combating drug-related nuisance, as well as on reducing the supply of drugs by combating drug trafficking, which is often part of international organised crime. To facilitate the effective enforcement of the Opium Act 1976, the Public Prosecution Service issued revised guidelines for investigations and prosecutions, 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.

### **Prevention**

450. Activities designed to inform and educate young people about drugs have been ongoing 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 develop behavioural skills, making young people more self-reliant, teaching them to deal with peer pressure, and helping them learn to make their own decisions.

451. Recent encouraging trends show signs of stabilisation, or even of a decline, in the consumption of drugs by schoolchildren in the Netherlands. For the first time in 16 years, the consumption of most drugs in the Netherlands among youngsters in the 10-18 age group has fallen (cannabis from 10.7% in 1996 to 9.3%, ecstasy 2.2% to 1.4%, heroin 0.5% to 0.4%, and cocaine 1.1% to 1.2%).

452. The evidence points to big changes in both patterns of consumption and the reasons for taking drugs; furthermore, trends change rapidly. A new approach to prevention is needed to allow trends to be anticipated effectively. It must at any rate include long-term involvement in young people's social networks, through a range of activities using various channels in various areas: a community approach in the literal sense, linked to activities in schools and supported by media campaigns. The active participation of young people is essential.

453. The Netherlands Institute of Mental Health and Addiction has developed projects relating to drugs and alcohol as part of its "intoxicants and the healthy school" programme, 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 collaboration with parents. The pupils, not only at secondary school but also in the final classes of primary school, are approached via intermediaries. Local and regional organisations, particularly municipal health services and care organisations for addicts, maintain contact with schools. They target their activities at teachers, student supervisors, school management, parents, and pupils themselves. In 2001, 75% of secondary schools were implementing the project on a structural basis.

454. Various groups are also targeted by information campaigns on the risks of drug use. In 2006 a mass media campaign focused on curbing cannabis use. A project entitled "nightlife and drugs" provides information about the risks of drug use at pubs and clubs. There are special telephone and internet services that people can turn to with their queries about drugs and alcohol, and for advice on how to educate their children about these substances. Various peer education projects have also been set up. In one such project, called CIA (Cannabis Intelligence Amsterdam), young people from various ethnic backgrounds inform youngsters with a similar lifestyle in the 12 to 23 age group of the risks of excessive soft drug use.

## **Help**

455. Young people with problematic drug use can receive help from care organisations for addicts. Most have an outpatient programme specially for young people. Some also admit young addicts. The clinical programmes focus largely on education and family relations. The supply of care for young addicts will soon be extended to more regions, to improve accessibility.

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

#### **Article 35 (National, bilateral and multilateral measures to prevent the abduction of, sale of, or traffic in children)**

#### **Article 36 (Protection of children against all other forms of exploitation)**

456. These articles are examined in the report on the Optional Protocol.

#### **D. Article 30 (Education for ethnic and language minorities)**

457. Frisian is the most widely spoken of the minority languages originating in the Netherlands. It 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.

458. 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 Roma, as well as refugees. All these groups are targeted by minorities policy.

459. Ethnic minority groups have a high percentage of young people compared with the rest of the population, especially in the four largest cities. In Amsterdam, 57% of primary school pupils are from ethnic minorities, in The Hague the figure is over 49%, in Rotterdam 55%, and in Utrecht over 42%. Projected figures suggest that 62% of school-leavers in Amsterdam will be from ethnic minorities by around 2005.

#### **Minority language and culture teaching**

460. Secondary schools may offer ethnic minority pupils teaching in the language of their country of origin, but it must be available to all pupils who want it, and it must be paid for under the regular funding rules. In recent years, all schools have been given more statutory opportunities to opt to teach foreign languages other than English, German and French. One striking development is that, besides Arabic, Italian, Russian, Spanish and Turkish, some schools are now also offering Chinese. A booklet has been widely distributed among immigrants, informing them of the various opportunities for teaching in their own language at secondary school.

461. Among the ethnic Dutch, the Frisians are the only national minority with their own language and culture. Frisian children have a right to experience their own culture together with other members of their group, and to speak their own language. There are no particular differences in religious terms between the Frisians and the rest of the Dutch population. See also Chapter VII of this report.

**Periodic report of Aruba (Kingdom of the Netherlands)  
under the Convention on the Rights of the Child**

**2003-2006**

**Introduction**

1. This periodic report by Aruba under the Convention on the Rights of the Child is submitted in accordance with article 44, paragraph 1(b) of the Convention and Concluding Observation no. 63 of the Committee on the Rights of the Child (CRC/C/15/Add.227).
2. The present report describes the developments that have taken place in Aruba since the initial report was submitted at the end of 2002. It gives special attention to the Concluding Observations that the Committee on the Rights of the Child made in January 2004 after considering Aruba's initial report. A mixed committee representing both governmental and non-governmental organisations, established by Prime Minister's Decree of 12 April 2001, prepared this report. The information provided in it covers the period 2003-2006 and should be seen as supplementary to the initial report.
3. By the third quarter of 2006 the Aruban population consisted of 103,102 inhabitants, 27,376 of whom were children under the age of 18.

**I. GENERAL MEASURES OF IMPLEMENTATION**

**A. Measures taken to harmonise Aruban law and policy with the provisions of the Convention (art. 4)**

4. A number of recent developments have significantly enhanced implementation of the Convention. They include:

- Establishment of an Aruban counselling and reporting centre on child abuse in August 2005

More information on this centre's mandate can be found in Chapter V.

- Adoption in March 2006 of a national ordinance amending the Aruban Criminal Code to include additional provisions criminalising the sale of children, child prostitution and child pornography

More information on this ordinance can be found in Chapter VIII.

- Ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000

More information on this can be found in Chapter VIII.

- Initial steps towards establishing a centre for young people with special needs

More information on this can be found in Chapter VIII.

**B. Existing or planned mechanisms at national or local level for coordinating policies relating to children and monitoring implementation of the Convention**

5. The Aruban Committee on the Rights of the Child has the task of advising the Government on implementing the Convention on the Rights of the Child. In 2005-06 the Committee drafted a paper indicating what measures each sector and ministry needed to take to ensure Aruban compliance with the Convention. The Aruban Committee was guided in its work by its own findings from the first Aruban report and by the UN Committee's recommendations. In carrying out the action points, the ministries are taking the initiative to involve relevant governmental and non-governmental organisations. In an open dialogue with cabinet ministers and Members of Parliament, Committee members have been able to explain the implications of fully and comprehensively implementing the action points. The statutory instruments still need to be adapted in a number of areas. Particularly at policymaking level, local bodies and authorities need to work together in a systematic, coordinated way.

6. The cabinet has endorsed the Aruban Committee's recommendations and action points and asked the Social Affairs Department to coordinate a comprehensive approach to implementing them. The action points have now been distributed to the ministries and non-governmental organisations. The Committee has also met with the *Asociacion Trabao pa Hubentud* (ATHA), the umbrella group of youth organisations, and the *Parlamento Hubenil* (Youth Parliament) to discuss implementation of the action points. Presentations are planned for other governmental and non-governmental organisations. The Committee is working to foster the highest possible levels of awareness and commitment in carrying out these measures.

7. To carry on its activities, the Aruban Committee needs a budget of its own, for which plans are being worked out. At present its activities are financed by contributions from the bodies represented; where necessary sponsors are sought.

8. As part of the Kingdom, Aruba is party to a great number of both UN and European human rights conventions. To raise consciousness about the rights of the child, the Social Affairs Department recently set up a human rights coordination centre, which promotes human rights through education and by developing social policies based on human rights conventions.

9. The UN Committee on the Rights of the Child recommends establishing an ombudsman for children. There have been regular signs of public interest in an ombudsman in Aruba, but so far no concrete steps have been taken to establish one.

**C. Measures taken or envisaged to make the Convention's principles and provisions widely known to adults and children alike**

10. As mentioned above, meetings about implementing the Convention have taken place between members of the Aruban Committee on the Rights of the Child and the ministers and parliamentarians involved. Directly after the discussion of Aruba's initial report in 2004, the

Committee's findings were discussed with the cabinet. The initial report and Concluding Observations are available in the Library and at the University of Aruba. These documents are available on request in an information packet from the Department of Foreign Relations. The report and recommendations have also been discussed in the media.

11. Sponsoring by two service clubs has enabled the Aruban Committee to publish a colourful educational brochure in Papiamento entitled *Mucha tambe tin derecho* (Children have rights too). The brochure is already available at several locations and was sent, together with a learning package produced by the Education Department, to all schools for Universal Children's Day for their fifth and sixth-year pupils. A separate learning package will also be developed for the lower years. In the longer run, a survey will be held of children and young people to gauge their familiarity with the rights of the child and find out to what extent they think these rights are respected.

### ***Parlamento Hubenil (Youth Parliament)***

12. The Youth Parliament was established in 2003. The principles of the Aruban Youth Parliament Foundation are based on the Convention on the Rights of the Child, above all the rights to participation and freedom of expression. Creative methods to attain these goals are continually being sought. One of the Youth Parliament Foundation's most important objectives is to foster a culture of debate among young people. Since its establishment the Youth Parliament has carried out a number of projects, which always target youth. For example, events have been organised against drug and alcohol use and in favour of safe sex. The Parliament also has its own debating programme on TV. Youth Salud was a successful workshop to make young people aware of the dangers of overweight. A survey was also held of pupils to find out what they think about the Aruban school system.

13. The Foundation has organised various projects and courses with and for youth council members, including debating courses and presentations and discussions on young people and their social environment. The Youth Parliament has also taken part in various national and international conferences and dialogues on such topics as tourism, sustainable development, HIV/AIDS, Papiamento as a language of instruction, the 2005 elections and the constitutional changes in the Kingdom. In all these discussions youth council members gave their opinions about the subjects and about how they envisage the future.

14. The Government supports the Youth Parliament and employs a youth consultant with a special mandate to support the Youth Parliament and advise on its activities and projects.

### **III. GENERAL PRINCIPLES**

15. In its Concluding Observations, the UN Committee on the Rights of the Child expresses its concern about discrimination against children from migrant families, in particular in access to services, and the fact that disability is not considered a ground for discrimination as defined by the Constitution. With regard to access to services, we refer to Chapters VI and VII of the

present report. As for the comment that disability is not considered a ground for discrimination as defined by the Constitution, we note that Chapter I of the Constitution lays out Arubans' fundamental rights. Chapter I is based on the following documents:

- The Convention for the Protection of Human Rights and Fundamental Freedoms adopted in Rome on 4 November 1950
- The American Convention on Human Rights of 22 November 1969
- The International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of 16 December 1966
- The European Social Charter of 18 October 1961
- The Constitution of the Kingdom of the Netherlands as revised on 17 February 1983
- The Constitution of the Netherlands Antilles

16. The first article of the Aruban Constitution includes the principle of equality and a ban on discrimination. Article I.1 reads:

All persons in Aruba shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, sex, colour, language, national or social origin, membership of a national minority, wealth, birth or on any other grounds whatsoever shall not be permitted.

17. The ban on discrimination in the second sentence of article I.1 of the Constitution tightens up the injunction to treat people equally. Discrimination is defined on the basis of characteristics of individuals or groups that they are powerless to change, or cannot change without harm to their personal identities. Article I.1 thus clearly protects children with disabilities.

18. The principle of equality must be honoured when statutory instruments are applied as well as when they are adopted. Statutory provisions are not applied if their application would be incompatible with the first chapter of the Constitution on fundamental rights (article I.22). This means that when fundamental rights are at stake, the government's actions can be reviewed in the courts for their constitutionality, that is for conformity with the injunction to treat people equally in equal circumstances.

19. The new draft Criminal Code extends the scope of the discrimination provisions. These now include discrimination against persons with a mental or physical disability. The new Code will be presented to Parliament no later than January 2008.

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

20. *The Committee recommends that the State party increase the funding and availability of quality childcare facilities and services, support parental education programmes, in particular for parents of disadvantaged and vulnerable children and adolescents, and ensure that all children and adolescents of working parents have the right to benefit from these services and facilities.*

### **Childcare services**

21. There is a major demand for childcare and in recent years, childcare centres in Aruba have been able to develop freely with little government intervention. However, not all these developments have been positive, so the government is preparing legislation which will introduce quality requirements for childcare.

22. Research has revealed a range of problems which in turn affect the way legislation is implemented. Ways are currently being devised of funding the cost of implementing the new legislation. A tripartite system is envisaged, in which the costs are shared by the government, employers and parents. However, it takes time to collect the necessary data on financial matters and discipline. There are no cross-sectoral agreements in Aruba, which makes it difficult to implement regulations that apply across the board.

23. The only form of childcare funded mainly by the government is Traimerdia, a project for after-school care. However, it has a waiting list of about 600 children aged between 4 and 12. In April 2005, parents and relatives of mentally handicapped people set up Asociacion Sonrisa, an after-school childcare centre which can take 12 mentally handicapped children aged between 4 and 17.

### **Support programmes for families**

24. In recent years, foundations and government institutions providing preventive and curative care for parents and children, such as the Guardianship Board, the Social Affairs Department (DSZ), the Respeta Mi Foundation and the Fundashon Pa Nos Muchanan have been given more funding to recruit new staff. The cofinancing organisation CEDE Aruba provides funding for activities, courses and workshops run by various NGOs.

#### *Parenting advice and information centre*

25. In 2004, the White-Yellow Cross Foundation (*stichting Het Witgele Kruis*) set up a parenting advice and information centre. It aims to help parents with children aged between 2½ and 5, who come to the White-Yellow Cross clinics and need help with educational and parenting issues.

#### *Let's Talk Project*

26. In January 2005, the Aruban police (KPA) launched the Let's Talk Project. This is a cooperative venture involving interactive information sessions for parents and children on such topics as sexuality, teenage pregnancy, alcohol abuse, bullying, violence, gangs etc.

#### *Teenage pregnancy*

27. According to Guardianship Council statistics, the number of teenage pregnancies in Aruba is rising. At present, the Council has two social workers dealing with this and related issues. In 2005, a number of NGOs set up CEMBRAH, a network organisation that provides help for teenage parents. CEMBRAH represents a range of organisations involved with the social,

physical, preventive, educational and other aspects of teenage pregnancy. A package of care offers various forms of guidance and help to teenage parents. In addition, CEMBRAH produces and disseminates information for young people as part of its active teenage pregnancy prevention programme.

28. *The Committee recommends that the State party expand alternative care in all parts of the Kingdom through, inter alia, increasing the support services and financial assistance for foster care families as well as the number of staff working in residential institutions in Aruba so as to ensure that children receive full-time care, including at weekends.*

### **Foster care**

29. In 2004, alternative care was expanded with the opening of Centro Famia di Crianza Arubano, a centre for foster families. It is responsible for recruiting new foster families, registering, preparing and training new foster parents, liaising between children and the foster parents and organising group activities for foster parents. Since its opening, the centre has helped 59 families.

### **Residential facilities**

30. Since last year, Casa Cuna Progreso, which takes children up to the age of 6, has also been open at weekends. This means that children already resident during the week can stay on and also that non-resident children can be given emergency accommodation at weekends. Negotiations are currently under way to open the Imeldahof residential facility for children aged from 6 to 14 at weekends in the first quarter of 2007. The residential facility for 14 to 18-year-olds (formerly Cas pa Hubentud) merged with the Remedial Education Centre. This is not yet open at weekends. More information about this centre for children with special needs can be found in Section VIII.

31. *The Committee recommends that the State party:*

- *Ensure that there is a clearly defined policy on child abuse and neglect, which includes prevention, reporting and assistance to victims and is supported with adequate financial and human resources, in Aruba*
- *Enact the 1993 Aruban Government Decree on the establishment of a medical examiner's office which registers cases of child abuse and neglect and coordinates investigation and treatment of victims in a child-sensitive manner*
- *Explicitly prohibit corporal punishment by law and carry out public information campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment*

### **Prevention**

32. In 2006, there was a shift of emphasis within the Social Affairs Department towards parenting support, family coaching and family therapy. Within the Life and Family Problems Division, a subdivision was set up with responsibility for family therapy. The Help in the Home

(Huis aan Huis Hulp) project was launched to provide parenting support and give families practical coaching in creating harmony at home. The Social Affairs Department district teams are also involved in the scheme. Family counsellors from the above-mentioned subdivision are being trained to provide this type of family therapy.

33. There are plans to set up a Prevention Council with representatives from NGOs and government bodies. It will have the following responsibilities:

- (a) To devise a policy on the prevention of child abuse and neglect;
- (b) To devise programmes which foster the prevention of child abuse and neglect;
- (c) To generate funding for the prevention programmes.

34. A new initiative to prevent cruelty to children was launched at the beginning of 2006, with the website of Fundacion Respeta Mi: [www.respetami.aw](http://www.respetami.aw). The website gives information in Papiamentu about how to recognise, and deal with child abuse. The website is designed for both children and adults (parents, guardians, teachers, activity leaders, etc).

### **Corporal punishment**

35. Aruba's Criminal Code prohibits child abuse. However, parental "smacking" or "slapping" is not specifically forbidden by law. The draft of the new Criminal Code, scheduled to enter into force in 2008, will not expressly prohibit smacking by parents as a disciplinary measure against undesirable behaviour.

### **Child abuse reporting centre**

36. The child abuse counselling centre, Bureau Sostenemi ("support me"), became operational in 2005. It aims to function as a central registration point for child abuse and, in liaison with existing institutions and organisations campaigning against child abuse, to promote a more structured approach to tackling the abuse and exploitation of juveniles. Like the Dutch Advice and Reporting Centre for Child Abuse and Neglect, the Bureau's medical examiner registers, refers and monitors children who have been neglected and/or subjected to sexual or other forms of abuse. Bureau Sostenemi has two social workers and an administrative assistant, and is government-funded. So far, its activities are largely at a preliminary stage and have involved liaising with various bodies in order to draw up cooperative agreements, arrange publicity through the media and publish leaflets and posters.

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

### **Disabled children**

37. Since Aruba is a small country, it is unfortunately not always able to provide specialised care or special education for disabled children. There is no round-the-clock care for disabled children. There are no educational services or day care for children with motor and/or serious

multiple disabilities. Children with learning difficulties may be eligible for special education in Aruba, but because of the lack of facilities, they often end up on waiting lists or can only be placed for a portion of the week. The Foundation for the Mentally Disabled draws regular attention to such problems.

38. *The Committee recommends that the State party strengthen its efforts to integrate children with disabilities into mainstream education and everyday life by improving the physical accessibility of mainstream schools, leisure and recreational facilities, and other public buildings and spaces in Aruba.*

39. With the help of the board of governors and the parents' committee, certain schools have in recent years improvised and adapted their buildings, sports and recreational facilities for the access and use of disabled pupils. However, other public buildings and amenities require more attention and substantial adaptation. Current building adaptations are often the result of private initiatives and as such require planning and building permits. Building adaptations for disabled access are supposed to meet certain guidelines, but these are not laid down in law and are therefore not mandatory. All planning applications are recommended to include disabled access but this is not usually followed up by an inspection. New legislation is in preparation which will make disabled access a mandatory element in building adaptation, and will ensure that construction work is also approved by an inspector. These amendments are due to be presented to parliament in 2007.

40. *The Committee recommends that the State party undertake awareness-raising campaigns to address prejudicial attitudes to children with disabilities, and promote their full integration into society.*

41. Large-scale awareness campaigns very occasionally take place in Aruba, usually thanks to fund-raising by non-governmental organisations. As yet, there are no specific government plans to promote the social integration of disabled children.

42. *The Committee recommends that the State party take all necessary measures, in cooperation with parents and religious leaders, to ensure universal vaccination of children.*

43. The vaccination programme is unchanged and universal vaccination is guaranteed.

44. *The Committee recommends that the State party take all necessary measures to reduce mother-to-child transmission of HIV/AIDS, including but not limited to the use of antiretroviral drugs for pregnant women who are HIV-positive.*

45. Pregnant women are given routine blood tests for HIV and syphilis. If the woman is HIV-positive, her midwife, general practitioner or gynaecologist will contact an internist and they will jointly draw up a course of treatment. In the post-partum period, the paediatrician administers the necessary antiretrovirals for a 6-week period. In recent years, the number of HIV-positive mothers has dropped, thanks to blood tests during pregnancy. People living with

HIV/AIDS (including pregnant women) can obtain information, treatment and guidance from the Public Health Department. If necessary, the patient is referred to a specialist. Various ministries and organisations are working together on information and prevention. Regular care for infants with HIV/AIDS is available by arrangement with the hospital in Aruba: children are treated by a paediatrician and teenagers by the internist.

46. Once children are old enough to go to school, their situation is discussed by the head of school, their parents and a member of staff at the Infectious Diseases Service of the Public Health Department. The purpose is to exchange information and agree on the action to be taken in the event of certain circumstances such as an accident involving blood, where there is a danger of the infection spreading.

47. *The Committee recommends that the State party take all necessary financial and administrative measures to ensure adequate availability of mental health services for adolescents.*

48. After the departure of Aruba's only psychiatrist for children and teenagers, the *Kids and Teens* project was launched. It aims to provide mental health care for children and teenagers and is housed in a psychiatry practice where assessment and therapy are provided by a team of two psychologists and a child psychiatrist. Where necessary, other institutions are involved in the treatment. In 2007, the project team will be supplemented on a weekly basis by a child psychiatrist from Curaçao. The cost of care is covered by General Health Insurance (AZV), provided the client is referred by a general practitioner.

49. Apart from this, there is no single institution that actively promotes general mental health care for teenagers in Aruba. Depending on their age (older than 16) and the nature of their problem (drugs, alcohol, pregnancy), teenagers are currently referred to other care institutions for specific help.

50. *The Committee recommends that the State party take all necessary measures to prevent drug and alcohol abuse, including education campaigns, and ensure that there are sufficient rehabilitation services specifically for children and adolescents.*

51. There are no specific reception facilities in Aruba for children and teenagers with problems related to drugs and/or alcohol. Older teenagers are usually referred to institutions that specialise in the reception, counselling and rehabilitation of adults. Addiction is a topic covered in the secondary school curriculum in the subject Personal Development (introduced in the 2004-2005 school year). A new primary curriculum is currently being developed, which will focus on health and movement and emphasise a lifestyle that is healthy in all respects - physically, socially, emotionally and mentally. It is hoped that this approach will have a preventive effect. Information about alcohol and drugs is also provided by non-governmental organisations, which develop their own materials and hold lectures and workshops.

52. *The Committee recommends that the State party strengthen programmes on sex education, including those in schools, and reproductive health counselling for adolescents and take effective measures to prevent early pregnancy.*

53. In 2006, a number of institutions mounted a joint campaign against teenage pregnancy. Their information meetings and exhibitions are now well-attended events. There is also a programme which provides information to parents of children in the upper forms of primary school. Some children are already sexually active by then, so information needs to target prevention even within this young age group. The government is developing a new primary school curriculum which deals with sexuality. The subject is covered in the secondary school curriculum in the subject of Personal Development. Information campaign material has been produced, including a play, which was performed in 2006. In 2005, the Child and Youth Telephone Helpline also developed material on sexuality and pregnancy.

54. *The Committee recommends that the State party provide teenage mothers in Aruba with the appropriate assistance and ensure that they can finish their education.*

55. Whether teenage mothers are able to finish their education depends on the policy of the school in question, but the practice of expelling girls once they are found to be pregnant is now rare. Most schools operate a policy of allowing pregnant teenagers to stay at school until around the seventh month of the pregnancy. They return to their classes several weeks after the birth. Thanks to the above-mentioned CEMBRAH agreement on the prevention of teenage pregnancies, counselling is available for teenagers from the moment their pregnancy is confirmed. However, the mothers still have to cope with the extra expense incurred by the pregnancy and providing care for the baby once they go back to school. Childcare services will accommodate babies during school hours for a small fee. However, there are currently no grants or other schemes in place to cover the extra costs of pregnancy.

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

56. *The Committee recommends that the State party expedite the adoption of the National Ordinance on Compulsory Education and ensure that it is enforced, including for children of undocumented migrants.*

57. The draft National Ordinance on Compulsory Education has not yet passed through parliament. Once this has happened, a committee appointed by the Education Department will make preparations for implementing compulsory school attendance. As yet, there is no agreed timeframe for this.

58. In May 2000, a steering group was appointed to establish how many children aged 4 to 18 in Aruba do not attend school and the reasons for their non-attendance. The inquiry found that 515 children and young people in the 4-16 age group and 41 teenagers aged 17 and 18 did not attend school. A programme to get this group back into education (Incorporation Programme) was accordingly set up in the 2001-2002 school year. Solutions for tackling non-attendance are described in three policy documents, which have since been adopted by the Aruban government. Priority is being given to the 4-12 age group.

59. Immigrant children aged 8 to 13 attend the Incorporation Programme for a year. They are trained in separate premises from the regular primary pupils, using the PRISMA method, and the following year they join the regular class appropriate to their age and ability. Attendance is

conditional on one of the parents or guardians having a residence permit and the child's being resident in Aruba on or before 1 December 2000. Recently arrived immigrants have been admitted since then, and are therefore not included in the 515 children registered in 2000.

60. Non-attending children aged between 14 and 18 were incorporated into the education system in the 2002-2003 school year, and followed a curriculum consisting of Dutch, Papiamentu, Arithmetic/Mathematics and Social Orientation. The subjects Personal Development and Study Counselling were subsequently added to the timetable.

61. As of 1 September 2005, a total of 183 pupils (94 girls and 89 boys) aged 7 to 19 were involved in the Incorporation Programme (see Appendix 1a).

62. *The Committee recommends that the State party expand education possibilities for children with disabilities in Aruba, including those with learning disabilities, at the secondary school level.*

63. As described in the initial report on Aruba, the country has three schools for children with learning difficulties, including one for pupils with severe learning difficulties (MLK) and one for deaf and hearing-impaired children. The Foundation for the Visually Impaired (FAVI) provides teaching for blind and visually-impaired children within mainstream education.

64. There is no separate special education at secondary school level in Aruba. Junior secondary vocational education partly caters for pupils with learning and behavioural difficulties, but most of them are from primary schools for children with severe learning difficulties. There is a pilot project for secondary education at the school for deaf and hearing-impaired children. The school for pupils with severe learning difficulties does not officially provide secondary education, but pupils aged 12 and over can attend classes and receive counselling.

65. After comparing Aruba's education system with others in the world, it was decided to base the Strategic Plan for reforming nursery and primary education on the principle of inclusiveness. Draft policies on special education (including at secondary level) are currently up for discussion. They aim to secure a single, continuous learning process for all pupils. The underlying principles are inclusiveness and the right to education. It is proposed to set up a multidisciplinary team responsible for early detection of development disorders and to make peripatetic counselling available to all schools.

66. *The Committee recommends that the State party expedite efforts to address non-attendance and the dropping out of school.*

67. Draft programmes for combating dropout in the current school system are currently in preparation. A joint venture involving various government ministries will focus on a Remedial Education Centre programme for school dropouts. The Aruban Education Department will be responsible for the educational content and will focus on developing programmes, setting up a special needs support structure, organising training courses, refurbishing classrooms and providing basic facilities. There are plans for a multidisciplinary centre, a joint venture involving experts from a variety of disciplines. Its task would be to advise, refer, diagnose, identify, implement and coordinate with regard to special needs services and to contribute significantly to efforts to tackle the problems of children and young people up to the age of 18. It will focus on

learning difficulties, social, emotional and behavioural problems, and also physical and mental disability. The multidisciplinary centre will bring together teaching staff, a paediatrician, a social worker, a remedial psychologist/teacher, a child psychiatrist and other education specialists. The multidisciplinary team will be responsible for screening clients and then carrying out tests or a course of counselling or therapy, advising parents, the school and social services, referring children where necessary and monitoring their progress.

68. As of 1 September 2005 there were 20,990 people in the 4-17 age group, of whom 20,072 attended school (Appendices 2, 3 and 4). There were almost equal numbers of boys, and girls, but the gender proportions varied according to the type of school (Appendices 5 and 6). In 2005, almost a quarter (22.7%) of the population were receiving schooling (Appendix 7).

69. The teacher-pupil ratio currently stands at 16.85 (Appendix 8). In terms of the success rate, there is a definite fall-off at the end of primary education, expressed in the relatively high percentage of over-age pupils (over 12 years) (Appendix 9). This is due partly to older pupils (particularly immigrant children) joining the system from outside.

70. Of all pupils who continue their schooling at secondary level, 67.6% enter general secondary education (Appendix 9). Many encounter problems during (Appendix 10) and at the end (Appendix 11) of their time at secondary school. In 2004, 67% of pupils passed the school-leaving examination (Appendix 12). The examination results (Appendix 13-16) and the subject combinations chosen by pupils (Appendix 17-19) in general secondary education reveal traditional gender roles. Girls are more inclined towards languages and on the whole achieve better results in these subjects than boys. Boys tend to opt for science subjects and get better results in them than girls.

71. *The Committee recommends that the State party include human rights education in the school curriculum in Aruba.*

72. From nursery to vocational education in Aruba, new curriculums focus to a greater or lesser degree on gender equality and the prevention of role stereotyping. These topics are covered in the subject Movement and Health (*movecion y salud*) in primary education, Personal Development in general secondary education, Humanitarian Education and Life Skills in junior secondary vocational education, and Personal and Social Development in secondary vocational education. Locally produced materials are available for all these subjects so as to provide optimal links with Aruban students and their everyday experience of life.

73. *The Committee recommends that the State party ensure that sufficient teaching materials are available in Papiamento for primary and secondary students.*

74. Preparations are being made to introduce Papiamento as the language of instruction in primary education, up to and including the fourth year. In practice, this means that there will be a new curriculum. This demands a great deal of input in terms of developing teaching material and also training and instructing teaching staff.

75. Research will show whether Papiamento as a medium of instruction should be extended to the sixth year of primary school. There are also plans to teach Papiamento as an individual subject from the age of 4, and also Dutch, English and Spanish from the same age.

76. At present, there are no plans to change or extend the language of instruction in secondary education. With the exception of the hotel and catering stream in secondary education, where pupils are trained for occupations in tourism, the medium of instruction is Dutch. Papiamentu is taught as a subject in its own right. This is linked to the fact that after secondary school many students pursue higher education in the Netherlands.

## VIII. SPECIAL PROTECTION MEASURES

### Recent legislative developments

77. *National Sexual Offences and Stalking (Criminalisation) Ordinance (Official Bulletin 2003 no. 47)*. This ordinance, which expands the criminal law protection of minors against sexual abuse, entered into force on 22 August 2003. It considerably extends the period in which a complaint of a sexual offence can be lodged, so that long after they reach the age of majority minors can lay an information or lodge a complaint for sexual offences committed against them (Criminal Code art. 73 d). It also makes possession and distribution of child pornography criminal offences (art. 247). It includes boys in the protection against rape and unwanted physical penetration (Criminal Code art. 248 et seq.) and broadens the definition of the criminal offence of paying for sexual abuse of minors aged 16 and over or being present during such abuse (Criminal Code arts. 256a and 256b). Finally, it modernises the definitions of and considerably increases the penalties for the offences of promoting sexual abuse of minors by third parties and trafficking in children (Criminal Code arts. 258 and 259 respectively).

78. *National Custodial Institutions Ordinance (Official Bulletin 2005 no. 75)*. This ordinance regulates detention in Aruba. It lays down the organisation of custodial institutions and the legal status of inmates. While maintaining the punitive character of imprisonment, the ordinance provides that inmates' stay in an institution will help to prepare their return to society. Inmates are to be offered meaningful activity or work corresponding as much as possible to their characters and capacities. The ordinance provides that minor male inmates should be housed separately, and minor female inmates in any case in a unit with only female inmates. All inmates under 16 are to take part in an educational or training programme established for them by or on behalf of the director, and must join in the corresponding activities. All inmates between the ages of 16 and 21 can choose between taking part in an educational or training programme and doing work for no more than eight hours a day on weekdays; their choices are recorded in their detention plans. Inmates who work receive pay. Under the ordinance, regulations will be laid down for each unit of a prison. All inmates have the right to lodge complaints about their treatment and about decisions made about them. They also have the right to send and receive letters, to have telephone conversations for no more than five minutes a week, to have visitors and to receive necessary medical treatment. However, this ordinance has not yet entered into force. It will do so at a time still to be determined, when the implementation and transitional legislation will also be instituted.

79. *Draft Revised Criminal Code*. A special Committee on the Criminal Code and Criminal Procedure has recently presented a draft ordinance to the Government whose aims include a complete revision and modernisation of juvenile criminal law. An earlier draft ordinance prepared by the government, which would have included a partial revision of existing juvenile

criminal law, was rejected by the government's most important advisory body, the Advisory Council. The new draft is expected to be submitted to the States (Parliament) no later than 1 January 2008. Its entry into force will however depend on when the necessary implementation legislation is adopted.

80. *Introduction in March 2006 of a National Criminal Code (Amendment) Ordinance, including further provisions on criminal penalties for people smuggling, human trafficking and exploitation of children.* This new law implements the Optional Protocol on the sale of children, child prostitution and child pornography signed in New York on 25 May 2000, which Aruba has now ratified. It also implements the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both signed in New York on 15 November 2000 and supplementing the United Nations Convention against Transnational Organised Crime.

81. *The Committee recommends that the State party develop a National Plan of Action against Commercial Sexual Exploitation of Children and strengthen regional cooperation in this regard.*

82. Little is known about the existence or gravity of commercial sexual exploitation of children in Aruba. So far the Youth and Sexual Offences Unit of the police has not uncovered any cases or received any reports of it. Nor have any cases been reported to the social services. The number of companies offering escort services does seem to be keeping pace in recent years with the increase in tourism on the island, however.

83. The Public Prosecution Service said in its policy planning for 2006 that the extent and nature of prostitution in the hotel industry and in Oranjestad should be further investigated. There is a reasonably accurate picture of the milieu in the San Nicolas district where prostitution is concentrated, the activities going on there and the people who are active in them, because a system of permits is in place there. That is not true of the hotel industry or the capital, however, which is why the Public Prosecution Service wants to investigate the extent and nature of prostitution there. The investigation is also expected to provide a substantive picture of how children are or are not exploited in this milieu. But as stated above, at present there are no indications of such exploitation.

84. *The Committee recommends that the State party strengthen the capacity of the police in Aruba to receive and investigate complaints of trafficking and sexual exploitation in a child-sensitive manner, by increasing human and financial resources and providing appropriate training.*

85. There has recently been an internal reorganisation of the police, so that reports concerning minors now go directly to the specialised Youth and Sexual Offences Unit. This unit has taken several courses on sexual offences and criminal law, including one on methods of questioning people with mental disabilities.

86. In 2005 talks began, led by the Public Prosecution Service, aimed at improving the effectiveness of the criminal investigation squad in relation to the Public Prosecution Service. Attention is focused particularly on recording complaints and conducting case screenings.

Criteria for the quality and capacity of criminal investigation work, including cases concerning minors, are now being put on paper. Until now, however, smuggling and sexual exploitation of children have not been problems in Aruba.

87. *The Committee recommends that the State party ensure that all victims of trafficking and prostitution have access to appropriate services.*

88. See above. Implementation of this measure is temporarily on hold.

89. *The Committee recommends that the State party undertake an in-depth study of trafficking and sexual exploitation of children in Aruba, including the possible existence of sex tourism.*

90. The police and Public Prosecution Service are being vigilant so as to prevent trafficking and sexual exploitation of children in Aruba, and are alert to the possibility of sex tourism involving underage prostitutes. So far, however, there are no clear signs of any trafficking of children, sexual exploitation of children or sex tourism involving underage prostitutes in Aruba.

91. *The Committee recommends that the State party ensure the full implementation of articles 37, 40 and 39 of the Convention as well as the Beijing Rules and Riyadh Guidelines in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice.*

92. The Bureau Sostenemi, recently established on the model of the Dutch Advice and Reporting Centres for Child Abuse and Neglect and designated doctors' offices, is engaged specifically in registering, referring and monitoring children who have been neglected, abused and/or sexually abused in any way.

93. A draft ordinance prepared by the government to amend the Criminal Code, which would have partially revised and modernised juvenile sentencing law in anticipation of comprehensive Criminal Code revision, was rejected by the Advisory Council. The draft ordinance had proposed, on the Dutch model, to institute youth detention for no more than one year for 14 to 16-year-olds and for no more than two years for 16 to 18-year-olds, but the Advisory Council considered this contrary to the applicable international agreements, including the Convention on the Rights of the Child. This matter is therefore being taken up again by the departments responsible for drafting legislation.

94. *The Committee recommends that the State party amend legislation in the Netherlands and Aruba so that life imprisonment cannot be imposed on anyone between the age of 16 and 18 and fix a maximum limit for their detention.*

95. Young people between the ages of 16 and 18 who come in contact with the criminal law are in principle treated in accordance with Aruban Criminal Code articles 40-41m, which lay down the penalties for juveniles. Juveniles can never be sentenced to life imprisonment.

96. Young offenders between the ages of 16 and 18 can at present in exceptional circumstances be tried under adult criminal law. However, the new draft Criminal Code raises the threshold for treating young offenders between the ages of 16 and 18 as adults.

97. *The Committee recommends that the State party ensure that the detention of juvenile offenders is used only as a measure of last resort.*

98. As has been reported in the past, the Aruban penal system assumes that detention may only be imposed if no other appropriate sanctions are at hand to punish a juvenile offender. Detention may thus only be imposed as a last resort. There is a brief Juvenile Conference - a structured consultation between the Guardianship Board, the Rehabilitation and Child Protection Board, the Police Youth and Sexual Offences Unit, the Public Prosecution Service and the investigating officer - for every juvenile (12 to 18-year old) offender. The Juvenile Conference decides the best possible way of dealing with the case in light of the juvenile's interests and development. It opts for detention only if either the investigation or the seriousness of the offence makes this unavoidable. As a rule, young offenders are not interned with juveniles who have been institutionalised for behavioural problems.

99. The Child Protection Unit handles criminal cases involving children and adolescents and, with a view to prevention, cases of minors that have been reported by parents, guardians or carers: that is, minors with developmental and relational problems.

100. Since September 2004, Public Prosecution Service Alternative Sanction (TOM) hearings are held at the Rehabilitation Board office. TOM hearings are an initiative of the Public Prosecution Service in collaboration with the Rehabilitation and Child Protection Board. Cases involving certain kinds of criminal offences are settled in these hearings so as to ease the burden on the courts and Aruba's Correctional Institute (KIA, the prison) as much as possible. The hearings are comparable to the way community service and alternative sanctions are imposed on juvenile offenders in the Netherlands. They are held only in cases involving criminal offences for which the public prosecutor in court would normally demand a sentence of no more than three months' imprisonment. Various people may be present at a TOM hearing: the suspect (accompanied by a lawyer and/or, in the case of a minor, his or her parents), the victim, the public prosecutor, a legal officer and Rehabilitation Board staff.

101. The public prosecutor makes a proposal to the defendant at the TOM hearing that can be considered a decision not to prosecute dependent on certain conditions. The defendant must comply with these conditions for a certain operational period. If the defendant fails to comply with the conditions, the case can be brought to court.

102. *The Committee recommends that the State party avoid detention of juvenile offenders with children institutionalised for behavioural problems.*

103. The recent renovation of Aruba's prison (KIA) has created a young offenders' wing with twelve cells and four isolation or punishment cells. Each cell has a bed, a toilet and a ventilator. Inmates may acquire television sets on their own. The maximum age for the young offenders' wing is currently 21. Each cell can hold up to three juveniles.

104. Juvenile inmates are offered the opportunity to complete school through independent study. Schooling is not compulsory. They have opportunities at present to take part in sports, borrow books from the library and take courses given by volunteers on spiritual development, handicrafts, drawing etc. But they have insufficient or no opportunities to acquire skills or earn

diplomas while in detention. The new law on detention (the National Custodial Institutions Ordinance) will require the authorities to offer young inmates either targeted educational or training courses or work. The work would have to be paid. This law has not yet entered into force, however.

### **Centre for young people with special needs**

105. A number of Aruban youth services organisations have noted for many years that services for young people aged 12 to 18 with serious behavioural problems are inadequate. As a result these young people can end up living in undesirable conditions, or even as transients or in a criminal milieu. There is still no facility in which behaviourally disturbed young people can be housed separately from other juvenile inmates. The prison has only one young offenders' wing, which has no such facility. The "solution" is therefore to put young problem cases as much as possible alone in separate cells.

106. To provide these young people with a professional facility and treatment, the Ministry of Social Affairs has launched a project to create a centre for young people with special needs. The Centre will treat 12 to 18-year-olds with serious behavioural problems in open and closed wings, and later a secure wing. A director will be in charge of all three wings; each wing will have its own manager.

107. The open wing has already been opened for young people from the former residential facility *Cas pa Hubentud*. A team of seven group leaders is now supervising eleven young people up to the age of 17. In 2007 this open wing will be expanded to accommodate a group of approximately 16 young people. The aim will then be to house all the young people in an open wing at a single location. The plan is to use a former religious house near the Imeldahof residential facility.

108. The closed wing is scheduled to open at the end of 2006 and accommodate eight or nine young people. This group will live under strict rules, attend school and receive appropriate treatment. Its members will not be allowed to move about freely, but will be supervised closely and treated by a team of ten group leaders who are still to be appointed. These young people's intensive treatment and the location call for individual treatment in an environment requiring permanent surveillance.

109. Within two years, a secure wing will begin to operate at the site where the closed wing will have already been operating for two years. The secure wing will accommodate ten young people who will be placed there by court order. They will be under constant surveillance. They will live in an area shut off from the other wings and receive very strict treatment adapted to each individual. They will not be allowed to leave the premises. The Education Department will establish and run a special needs school on site that will provide them, as well as the young people in the closed and open wings, with education adapted to their needs. Ultimately there will be roughly 50 young people at two sites - 40 in closed wings and ten in the secure wing - and about 32 in the open wing.

110. *The Committee recommends that the State party expedite efforts to create more alternatives to detention for children in conflict with the law.*

111. There are currently initiatives to introduce youth services legislation, which will include clearer provisions on alternative responses to criminal behaviour. The following alternatives to detention are currently available:

- *Community service.* The public prosecutor can impose a maximum of 120 hours of community service associated with a conditional decision not to prosecute (possibly as the outcome of a TOM hearing; see above). This occurs in cases where the public prosecutor after a notice of summons and accusation would have asked the court for a sentence of no more than three months' imprisonment. The court itself can impose a maximum of 260 hours of community service, as a substitute for six months' imprisonment. If the community service is not completed or not properly completed, the person concerned must still serve his or her term of imprisonment.
- *Youth/training programme.* The public prosecutor can require young offenders aged 14 to 18, often school attenders, to take part in a youth/training programme for six weeks. Various themes (sexuality, drugs, communication, violence, self-image, etc.) are discussed three times a week. The young offenders then do work in the public interest in the afternoons for one of the six weeks.
- *Domestic Violence Offenders Programme (DVOP).* This alternative sanction consists of an eight-week course, the Domestic Violence Offenders Programme. It is usually imposed on perpetrators of domestic violence, particularly partners, parents and children. An American expert in the field has trained Rehabilitation and Child Protection Board staff to run the programme. Perpetrators of violent crimes who have been placed under the supervision of the Rehabilitation and Child Protection Board may also be persuaded to take this course.

## Second report of the Netherlands Antilles

### Introduction

1. The report of the Netherlands Antilles is submitted in compliance with article 44, paragraph 1 (b) of the Convention on the Rights of the Child, which entered into force on 16 January 1998 for the Kingdom of the Netherlands in respect of the Netherlands Antilles. The general guidelines regarding the form and content of periodic reports (CRC/C/5) have been observed as far as possible. The report covers the period from October 1998 to December 2006. It provides an update on issues addressed in the Initial Report (CRC/C/61/Add.4) and responds to the concluding observations of the Human Rights Committee (CRC/C/15/Add.186) of 7 June 2002.
2. The subjects which were dealt with in the previous reports and which remain unchanged in the period covered by this report have not been commented upon.

### I. GENERAL MEASURES OF IMPLEMENTATION

#### Measures taken to harmonise Netherlands Antillean law and policy with the provisions of the Convention

##### Recommendations

3. In its Concluding Observations (CRC/C/15/Add 186) the Committee on the Rights of the Child expresses its concern that national legislation, including the new Civil Code of the Netherlands Antilles, *Nieuw Burgerlijk Wetboek van de Nederlandse Antillen*, hereinafter referred to as NBWNA, and Family Law are not sufficiently known in the country and does not fully comply with the Convention on the Rights of the Child.

##### Current situation

4. There are no new developments to report in terms of the NBWNA. The Committee is referred to the Netherlands Antilles' initial report (CRC/C/61/Add.4).
5. The Netherlands Antilles' law of persons and family law is set out in Book 1 of the new Civil Code (NBW Book 1). The NBW Book 1 came into force on 15 January 2001, implementing changes to protect the rights of the child announced in the initial report. For example, the new Civil Code dispenses with the distinction between legitimate and illegitimate children,<sup>1</sup> and has made changes to laws on family names.<sup>2</sup> Both these changes benefit the child.

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<sup>1</sup> See III, General principles.

<sup>2</sup> See IV, Civil Rights and Freedoms.

6. Although the government of the Netherlands Antilles announced that it wished to be a Party to the Optional Protocols of 25 May 2000 concerning the sale of children, child prostitution and child pornography, and the involvement of children in armed conflicts, neither has yet been implemented. The Criminal Code of the Netherlands Antilles is currently undergoing revision; the new version will include legislation implementing both Protocols.

7. A draft National Ordinance amending the National Ordinance on Compulsory Education has been submitted to Parliament for approval. It advocates reducing the lower limit of compulsory school age from 6 to 4 and increasing the higher limit from 15 to 18. A number of measures will also be introduced to help enforce attendance. These changes form part of the wide-reaching Delta Plan, which is currently in development. The Delta Plan covers compulsory school attendance, youth training, individual needs assessments and career guidance. The aim of this Plan is to prevent young people from dropping out of education, and to reduce youth unemployment. This will give more young people a better start in life.

8. The new Youth Care policy framework was approved by the Council of Ministers of the Netherlands Antilles in April 2005. It lays down guidelines for dealing with cases of child abuse, and adopts a number of measures to ensure that the problem is dealt with quickly, effectively and efficiently. The policy framework is set out in the draft National Ordinance on Youth Care which will also replace the Youth Services Act, giving young people who need it continuous care and supervision up to the age of 24.

9. The Youth Care policy framework also proposes that every school in the Netherlands Antilles should have access to a school social worker. The Youth Care policy framework and the draft National Ordinance on Youth Care both emphasise the importance of children being able to report problems, and social workers to intervene, at an early stage. In this spirit, in August 2004 an amendment to article 251 of the Criminal Code of the Netherlands Antilles was adopted, giving teachers the authority to report their suspicions if they believe, or are informed, that a child is being abused.

10. The work of the government of the Netherlands Antilles and the island territory authorities is aided by the Support to the Netherlands Antilles Youth Development Programme (SNAYDP). The SNAYDP, launched in 2003, aims to improve the sociocultural integration of young people (aged 16 to 24) and their participation in the developing economy and helps national and island territory authorities to:

1. Formulate and implement an integrated strategy;
2. Set up local training programmes for the target group and improve opportunities for employment, focusing on the underprivileged, the inactive and the unemployed.

11. The SNAYDP is financed by the European Commission's revolving fund for support to micro-enterprises. A total of € 4,500,000 is available over a four-year period for all the island territories.

### **Measures taken or foreseen to make the principles and provisions of the Convention widely known to adults and children alike**

12. A Rights of the Child communication plan is currently being drafted to communicate the content, purpose and implications of the Convention on the Rights of the Child to a number of different target groups. These include children of all ages, parents, people involved with children through work or voluntary activities, and those who have no direct involvement with children or young people. A clear idea of the rights and responsibilities laid down in the Convention will encourage people to accept and observe them. The message will be communicated through a three-year media campaign.

13. The Netherlands Antilles does not have an Office for the Rights of the Child, nor does it have plans to set one up. There are however a number of individuals or bodies addressing violations of the rights of the child, as specified in the Convention, which children can easily approach.

14. The Curaçao Child Protection Agency (SKBC) is an accessible voluntary organisation that people can approach with any concerns they have regarding violations of the rights of the child. The Agency's main target group is children and young people aged 21 or under, their parents and carers, and professionals who work with children. It is not officially part of the youth care system of the island, but will refer cases when required and can arrange for social workers to follow up reports. Another important aspect of the Agency's work is educating adults and children alike about children's rights.

### **New developments in monitoring the Convention**

15. The initial report stated that the implementation of the Convention would be monitored by the Netherlands Antilles Youth Consultation Forum (JONA), the Task Force for Antillean Youth Steering Committee, the Council for Integrated Youth Policy, the Bonaire Youth Policy Steering Committee, and the Saba Youth Working Group (in formation). In the period 2002 to 2006 the following changes took place.

16. The Task Force for Antillean Youth is now known as the Youth Development Department, and is responsible for monitoring and enforcing observance of the rights of the child. In January 2003 the Introductory Memorandum on monitoring and observing the rights of the child, which focused on the following four objectives, was approved.

1. Encouraging the enforcement of and observance of the rights of the child and preventing violations;
2. Monitoring to ensure that these rights are enforced correctly and in full;
3. Detecting and addressing any violation of the rights of the child using the appropriate statutory measures;
4. Involving young people in enforcing their own rights.

17. In 2003 the Bonaire Youth Policy Steering Committee organised a number of thematic workshops involving both governmental organisations and NGOs. The objective was to list

existing problems, establish common policy principles and propose possible solutions. The results were presented to the island territory. Owing to lack of time on the part of both the official secretariat and the Steering Committee itself, the results were never implemented.

18. There has been a Youth Council on Sint Maarten since 1985. It is officially recognised by the government as the umbrella organisation for youth bodies. The Council's objective is to encourage the sound development of young people. Sint Eustatius also has a Youth Council, but it is not of comparable status. The Saba Youth Council is inactive due to lack of interest.

### **Funding for the Rights of the Child**

#### **Recommendations**

19. The Committee on the Rights of the Child emphasises the importance of implementing article 4 effectively, which specifies that State Parties must undertake measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation, in order to safeguard the economic, social and cultural rights of the child.

#### **Current situation**

20. Part of the Netherlands Antilles' central budget is allocated to the Youth Development Department, responsible for safeguarding the rights of the child and monitoring their observance, and part to the Department for Education, Sport and Culture.

21. In 2006 the Youth Development Department received a total of ANG 1,069,200.00 from the budget, ANG 226,502.00 of which went to the compulsory youth training programme. The Dutch government provided a further ANG 40,000,000.00 in funding for the programme over a five-year period, to which the Netherlands Antilles contributed an extra 15%. The Department for Education, Sport and Culture income and expenditure between 2002 and 2006 was as follows:

#### **Total education expenditure**

Year	Amount in ANG
2002	14 376 123.83
2003	13 783 542.39
2004	11 434 175.33
2005	10 474 952.11
2006	4 300 819.03 (as of October 2006)

#### **Grants for sport and culture**

Year	Sport - amount in ANG	Culture - amount in ANG
2002	434 392.00	141 077.70
2003	473 236.00	30 058.00
2004	479 256.61	10 333.26
2005	801 931.60	5 000.00
2006	381 618.00	unknown

*Curaçao*

22. As the largest island of the Netherlands Antilles, Curaçao has the most agencies targeting children and young people as most national agencies are based there. The running costs of a number of facilities managed by the Antillean Ministry of Justice, such as Family Supervision Agencies, are covered by grants from the Antillean government. Almost all agencies are obliged to find outside funding for all other costs.

23. At national level, over the last few years a number of projects have been set up in connection with the Netherlands Antilles Emergency Programme for Youth. Although the Emergency Programme has now been wound up on Curaçao and most of the projects have ended, a few of them have been taken over by the island territory and will run long term.

24. Almost all regular facilities for children and young people are funded by the island territory itself, to the tune of some ANG 40,000,000 each year. Around 40% of this is spent on social activities, culture and sport through contracts with a number of agencies working in this area.<sup>3</sup>

25. Around ANG 11,500,000 is spent annually in connection with education. After-school care, literacy projects and day-care centres all receive grants and assistance with staff training.

26. The youth care and youth services sector receives around ANG 11,000,000 from the island authorities on an annual basis. This funds peripatetic and residential youth services, child health clinics and the youth healthcare unit of the Medical and Public Health Service. Both the Antillean Cofinancing Organisation (AMFO) and private agencies focus on sociocultural and educational training projects.

*Bonaire*

27. Two agencies operating on Bonaire are funded by the Antillean government; the Family Supervision Agency and the Probation Service. The sole residential home for young people on Bonaire receives ANG 36 per child per day from central government for children under a care order. It also receives a crisis shelter grant from the island authorities.

28. The government sectors responsible for social affairs and education on the island of Bonaire provide annual funding of around ANG 1.5 million and ANG 1 million respectively. The money subsidises two child day-care centres, community centre work and the participation of young people in a range of activities. Some of the money is earmarked for introducing quality criteria within pre-school education and adjusting the grant system.

29. Parenting support is available for children in a number of different age groups. The Bonaire Foundation for Educational Information for Infant Care or SEBIKI<sup>4</sup> is responsible for

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<sup>3</sup> See VII, Education, Leisure and Cultural Activities.

<sup>4</sup> See VI, Healthcare and Welfare.

children aged 5 and under; funding has been earmarked for children aged 6 to 11, but no decision has yet been taken on awarding the grant contract to a specific organisation. Where possible, parenting support for children aged 12 and over is provided by the Young Bonaire Youth Centre.

30. After-school care for 12 to 18 year-olds is provided by the Young Bonaire Youth Centre. The island education sector funds after-school care for 6 to 11 year-olds and the “second-chance education” programme, sports activities and the Public Library.

31. The Bonaire authorities place a strong emphasis on cofinancing. This means that most institutions require additional project funding next to what they receive from the island government. However, if a pilot project is successful, the Bonaire authorities are sometimes willing to take it over and provide the necessary funding.

#### *Sint Maarten*

32. The Family Supervision Agency and the Probation Service on Sint Maarten are also centrally funded. The Emergency Programme funded three island projects: the after-school care School Plus project, the Wave second chance for education project and a bridging class for the children of migrants needing to improve their grasp of the language before joining mainstream education.

33. Once the Emergency Programme had been wound up and the School Plus project had been evaluated the island authorities decided to take it over, in an adapted form. The Wave project was terminated. The bridging class has only just been set up and, as part of the Emergency Programme for Youth, will run for two years (until the end of 2005).

34. The island authorities are currently funding after-school care for primary and secondary pupils, organised by four different institutions. They contribute a maximum of 30% of the total costs, on the understanding that the implementing organisation and the users contribute the rest of the funds.

35. The Sint Maarten authorities also support an organisation offering parenting support and professional development for day-care centre and youth leaders, Youth Community Centres, the Motiance dance foundation, and a number of programmes designed to encourage cooperation between schools and help young people access the employment market. Over ANG 500,000 is earmarked annually for sociocultural development.

36. Education (including mainstream education) receives more than ANG 50 million annually. Almost ANG 1 million goes to the healthcare sector, funding mainstream youth health care, a baby clinic, a dental plan for children and HIV/AIDS-related projects for young people.

#### *Sint Eustatius*

37. There are no nationally funded youth-oriented institutions on Sint Eustatius. An after-school care programme for children aged 4 to 12 and 13 to 18 was set up under the Emergency Programme for Youth. Although the two-year pilot has now officially ended, an extension has been applied for as the budget has not yet been exhausted. No official decision has yet been taken, but private funds have provided additional investment.

38. Several key programmes (the second-chance education and parenting support programmes) have proved to be unsuitable for subsidy through the Emergency Programme. The relevant implementing bodies will see if funds can be raised via the SNAYDP and AMFO. Due to financial limitations, it is not possible to earmark funding for continuing after-school care once the Emergency Programme has ended.

#### *Saba*

39. The fact that Saba is so small means that it is unable to offer extensive facilities and activities. Nonetheless, several youth organisations active on the island attract large numbers of children and young people. Child Focus, a successful after-school care programme for children aged 6 to 12 and 12 to 18, has been set up as part of the Emergency Programme. Thanks to efficient financial management the project can run for an extra six months, taking it up to the end of 2004.

40. Child Focus has asked the island authorities for funding so that it can continue to offer care from January 2005 onwards. The authorities, which have been providing transport to and from the facility, have not yet made a final decision (for financial reasons), so the project is now under threat. However, the AMFO has now pledged to fund the purchase of necessary materials.

41. Each year the island authorities earmark funding for Public Library and Youth Centre maintenance, electricity and staff costs. The two institutions are dependent on project grants and independent funding for purchasing materials or setting up projects. As Saba is so small, it places particular value on sociocultural and sports exchanges. Saba NGOs have explicitly included these activities in their programme proposals submitted to the AMFO on account of the high travel and accommodation costs.

### **Data collection**

#### **Recommendations**

42. The Committee recommends that the State party systematically collect disaggregated data incorporating all the areas covered by the Convention and covering all children below the age of 18 years, with specific emphasis on those who are in need of special protection and including children within the juvenile justice system.

43. It also recommends that the State party develops indicators to effectively monitor and evaluate progress achieved in the implementation of the Convention and assess the impact of policies that affect children. Technical assistance could be sought from, among others, UNICEF.

### **Current situation**

#### **General**

44. Every two years, as part of the Youth Monitor survey, the Youth Development Department interviews young people between 12 and 24 years of age. The results can be used as indicators, e.g. by other government bodies/NGOs etc., to gauge what young people are thinking and feeling.

45. The Central Registration System (CRS), which is currently only operative in Curaçao, was set up in 2001. It records information submitted by agencies working with children and young people and forms the basis for the CRS newsletter, which keeps stakeholders informed of developments in youth care. Agencies can submit information using the CRS digital form on the Youth Development Department's website. The plan is to extend the system to other islands as of 2007.

46. A special youth register is currently being developed as part of the compulsory youth training programme (SVP). It will initially record the details of all young people aged 16 to 24 who lack basic educational qualifications. The information will be periodically updated, and checked against:

1. School admission registers: in order to establish whether the information regarding education participation is correct; and
2. The island in question's personal records database: in order to ensure that all young people in the database can be contacted if necessary.

47. Schools, institutions and parents are legally required to report pupils who leave school without qualifications to the relevant authorities.

## **Article 42**

### **Recommendations**

48. The Committee recommends that all professional groups working with children should be given training in rights laid down in the Convention. Such groups include: politicians, judges, lawyers, civil and public servants, teachers, healthcare professionals, remand centres and children's home staff, psychologists, social workers and parents.

49. The Committee also recommends that the rights be incorporated in the educational curriculum at all levels.

### **Current situation**

50. In 2006 the Child Protection Agency in Curaçao launched a series of workshops examining issues like child abuse, the rights of the child, domestic abuse and children's legal status. Anyone can attend. There has been so much interest in the workshops, particularly from teachers and various island agencies. To mark Universal Children's Day various government agencies and NGOs organise workshops throughout the Netherlands Antilles for young people aged 12 to 19.

### **Introducing the Convention to the education curriculum**

51. The focus of education in the Netherlands Antilles is on creating the right conditions. The primary national curriculum contains a number of basic principles relating to the rights of child, but it is the responsibility of each island territory and individual schools to put them into practice. The Rights of the Child are not referred to by name, but the education curriculum nonetheless aims to familiarise children with the basic principles.

### **Disseminating the initial report on the Netherlands Antilles**

52. The Dutch summary of the initial report was translated into Papiamentu and English; these versions were then distributed to the following bodies and professionals, as part of the communication plan:

- All libraries on every island (including the university libraries)
- All primary schools on every island
- All secondary schools on every island
- All hospitals on every island
- All family doctors and dentists on every island
- All 75 island agencies involved in the project

53. All were asked to make the document available to the public. Schools were asked to make the document available to pupils, parents and other visitors.

## **II. RESERVATIONS**

### **Article 22**

#### **Recommendations**

54. The Committee notes with concern the declaration made by the Kingdom of the Netherlands on the ratification of the Convention relating to the status of refugees of 28 July 1951 to the effect that the Convention does not apply to the Netherlands Antilles. The Committee recommends that the reservation be withdrawn.

55. The Committee also recommends that effective legal and other measures be taken to ensure adequate protection of refugee and unaccompanied children and implement programmes and policies to ensure their access to health, education and other social services.

#### **Current situation**

56. The situation is unchanged; please refer to the initial report.<sup>5</sup> As the Convention has not been ratified for the Netherlands Antilles, no national legislation on refugees has been drafted. The term “refugee” as such is not used in Netherlands Antilles law. There is no separate asylum legislation; asylum applications are very rarely submitted.

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<sup>5</sup> CRC/C/61/Add. 4.

### **Article 26**

57. As a result of reservations made by the State Party with respect to article 26 of the Convention, applicable to the Netherlands Antilles, minors are not, in principle, entitled to social security in their own right.

58. The guiding principle of current social security legislation is still that children's right to social security is derived from the right of their parents. According to current legislation, family members of an insured employee or former employee can claim an allowance for medical treatment and nursing. Should the employee in question lose their right to the allowance, their children will also lose theirs. There are no immediate plans to amend this legislation.

### **Articles 37 and 40**

59. The Committee also expressed its concerns about the reservations made by the State Party with respect to juvenile criminal law, applicable in the Netherlands Antilles, which mean that children aged 16 and over can be tried according to adult criminal law. At the same time, minors are sometimes housed with adults in detention facilities.

60. With respect to article 40 of the Convention, the Committee expressed its concerns that minors committing lesser offences are rarely offered legal representation.

#### **Current situation**

61. Reference is made to VIII, Special Protection Measures.

## **III. GENERAL PRINCIPLES**

### **Article 2**

#### **Recommendations**

62. The Committee expresses its concerns that the right to non-discrimination specified in article 2 is not guaranteed under current legislation, and recommends that discrimination on all the grounds covered by article 2 of the Convention be prohibited.

63. In addition, it recommends that measures be taken against all forms of discrimination against children with a disability and, in particular, to ensure that children of migrant families have equal access to education, health and other services.

#### **Current situation**

##### *Legislation*

64. The situation as described in the initial report is unchanged. Both the international treaties to which the Kingdom of the Netherlands is party on behalf of the Netherlands Antilles, and the Constitution of the Netherlands Antilles guarantee the right to equal treatment and to equal access to the fundamental rights established in statutory regulations and international treaties. Children's right to non-discrimination is derived from the latter.

65. With the introduction of the new Civil Code for the Netherlands Antilles the legal status of children born outside marriage has been revised.<sup>6</sup> Nowadays no distinction is made between legitimate and illegitimate children.

66. No new legal measures have been taken to combat discrimination against children with a disability. There are still very few, if any, facilities for children with a disability, e.g. buildings adapted for wheelchair access, even in key locations such as schools. This means that children with a disability are unable to participate fully in society. The government of the Netherlands Antilles is currently assessing the feasibility of the UN treaty on the rights of persons with disabilities.

67. All children are treated equally in school, regardless of whether they have a disability, are from a poor background or belong to a minority group. Although the education system allows children's possible shortcomings to be taken into account, senior staff and teachers are often unaware of this. This means that children with a disability do not get the upbringing and education that they need.

### **Health care and welfare**

68. Although healthcare rules in the Netherlands Antilles stipulate that preventive health care is available to all children, including the children of immigrants, the residence permit or legal status of the parents largely determines the type of care children receive. The Youth Care policy framework, an important new step towards equal care for all children, has already been approved.

69. As a general rule, no distinction is drawn between different groups in terms of the right to health care. There is, however, a difference between those who are insured and those who are not. The Netherlands Antilles as a whole, and the individual island territories, are not responsible for the care costs of people who are not insured. The new General Health Insurance (AZV) system is expected to help reduce the number of people who are uninsured. The Sint Maarten healthcare sector is therefore proposing to set up a guarantee fund when the AZV system is introduced, to help cover the costs of their medical care. At the present, the insurance system is inadequate and there are no rules governing the uninsured.

### *Curaçao*

70. Preventive health care is free for all children up to 18 years, regardless of nationality, religion and their physical or mental health. However, there are often long waiting lists for specialist disabled care, partly due to insufficient funding. Although children from immigrant families have a right to medical attention, experience has shown that they often have difficulties registering with local authorities. This means they will not be eligible for a Pro- Pauperie-card, which entitles the holder to 100% reimbursement of medical costs or any other form of medical insurance.

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<sup>6</sup> CRC/C/61/Add. 4.

*Bonaire*

71. Bonaire has a small population; people with a disability are generally well integrated. Efforts are being made to ensure that immigrants and their children are insured and that they have access to healthcare. However, psychological treatment is not covered for children insured via the Bonaire Social Insurance Bank; and children who do not have Dutch nationality are not eligible for a Pro-Pauperie card.

*Sint Maarten*

72. No new anti-discrimination measures have been taken since 2002 in the healthcare sector. All children on Sint Maarten receive free preventive healthcare through Youth Care programmes, whether or not they are entered in the population register. The main problem facing the healthcare system in safeguarding every child's right to be free of discrimination is the lack of legislation and the inadequate insurance system. There is also a shortage of school and Guardianship Council social workers, meaning that necessary action cannot always be taken.

*Saba*

73. So far no complaints have been made by or about care institutions on the island about violations of children's right to care, with particular reference to medical care. However, there is no agency on the island charged with preventing discrimination, nor have care institutions been asked to set up a prevention system.

*Sint Eustatius*

74. It is rare for a child on Sint Eustatius not to have a residence permit, but should the situation arise, it would not disadvantage the child, as Sint Eustatius is a small island. There is, however, a lack of school and Guardianship Council social workers, which can result in an inadequate response in certain discrimination cases.

**Education**

75. In 1991 the National Ordinance on Compulsory Education<sup>7</sup> came into force for the Netherlands Antilles and was implemented through island ordinances. Under this National Ordinance, all children living in the island territories have the right to education. It is also illegal to distinguish between "legal" and "illegal" children, in other words, between the children of immigrants and non-immigrants.

76. Immigration has caused serious problems for Sint Maarten's education system. This has resulted on occasion in children from immigrant families not being registered with a school at the beginning of the school year.

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<sup>7</sup> National Ordinance Official Bulletin 1991, No. 85.

### **Article 3**

#### **Recommendations**

77. The Committee is of the opinion that the principle of the best interest of the child, and allowing the best interest of the child to prevail in all that has an impact on children, is not given sufficient priority.

78. One measure introduced since 2002 that emphasises this principle is the draft National Ordinance on Youth Care referred to above, which proposes that the child protection measures in the new Civil Code for the Netherlands Antilles be strengthened.

### **Article 6**

#### **Recommendations**

79. Homicide is one of the main causes of mortality among older children. The Committee therefore suggests that the problem be examined and the primary causes tackled.

#### **Current situation**

80. Measures, research projects or programmes relating to examining and tackling the primary causes of mortality among young people aged 15 to 24 are currently limited to improving coordination between agencies working with children.

81. Child mortality in the Netherlands Antilles is recorded centrally. It is a legal requirement to have a doctor draw up a death certificate in the event that a person dies. The deceased person must then be reported to the population registry. Once this has happened the death certificate must be forwarded to the Public Health Department on Curaçao to be registered and analysed. A report detailing the cause of death is then sent to the health care sectors of the island in question.

82. Doctors and other medical personnel are obliged to alert the Public Prosecution Service if they believe that the death of a child was suspicious. The Public Prosecution Service will then investigate the circumstances of the death. If the doubts are purely medical, a postmortem can be carried out with the permission of the child's parents or guardians.

83. Every island runs active information campaigns designed to prevent suicide among children. Children with suicidal tendencies can be referred to their family doctor, outpatient clinics, or psychosocial care institutions. Children are free to contact these agencies themselves, without the need for referral. The general problem is that most of the islands lack professionals like social workers and psychiatrists, which means that troubled children can slip under the radar and intervention usually comes too late.

84. The Netherlands Antilles has taken the significant step of conducting information campaigns in schools and in the community at large on minimalising potential danger, e.g. street violence and sexually transmitted diseases. This will benefit children of all ages, and adolescents in particular. Preventive health care on the islands is also available, in the form of vaccination and youth dental care programmes.

*Curaçao*

85. The child and youth care unit organises information campaigns on sexually transmitted diseases for schools and community centres, while the Curaçao AIDS Foundation coordinates awareness-raising campaigns.

86. The Medical and Public Health Care Service (GGD) is currently developing a new registration form to be completed by doctors throughout the Netherlands Antilles so to as obtain better statistics on a number of conditions, e.g. HIV infection. The plan is to make it a legal requirement to report HIV cases in this way. For more information on HIV/AIDS see VI, Health care and Welfare.

**Childcare centres**

87. In the Netherlands Antilles childcare centres need to meet certain statutory minimum requirements designed to improve care, stimulate development and thus prevent child deaths. In practice the minimum requirements are only enforced and monitored on Sint Maarten (see VI, Health care and Welfare).

*Sint Maarten*

88. For some time now the Sint Maarten healthcare sector has received no information from the Public Health Department regarding causes of death among young people. Since 2002 there have been no dedicated programmes to investigate the main cause of death among young people aged 15 to 24, namely homicide. As a result, no special measures have been taken.

89. In addition to informing adolescents about sexually transmitted diseases as well as street violence, and related risks, Sint Maarten has a strategic plan on HIV/AIDS targeting young people. Implementation of this plan is largely in the hands of government agencies and NGO's. The hospital on the island employs guidelines on fighting infectious diseases and has a policy on prevention of mother-to-child transmission (PMTCT-policy) of HIV.

90. As far the Sint Maarten AIDS Foundation and the healthcare sector are aware of, no children have died as a result of AIDS on the island, nor on Sint Eustatius and Saba, between 2002 and 2006.

91. The island also has regular preventive health programmes, including a vaccination programme and a youth dental care programme. There are general information and awareness-raising campaigns covering a wide range of health issues, benefiting schools and the wider community alike. One problem is that health programmes are usually run by schools. As there are few outreach programmes, children who do not attend school miss out.

92. Funding for the following preventive healthcare measures benefiting children is earmarked in the annual island budget:

Item	Funding
Grants for child health clinics	ANG 50 000
Vaccinations	ANG 190 000
Youth dental care	ANG 200 000
Childcare	ANG 25 000
Health care in schools	ANG 7 000

93. Funding has also been earmarked for an HIV/AIDS working plan and for a healthcare survey, as well as for promoting health care. A 2006 shift in the budget reduced the amount of funding available for youth dental care, but increased grants for child health clinics.

94. There is a monitoring mechanism in place to ensure that all childcare centres on Sint Maarten meet the requirements laid down by law. Findings are discussed by the quality commission, which then draws up recommendations for improvement. Next to the inspections, there are monthly workshops regarding childcare which are open to both centre personnel and parents. For more information see VI (Health care and Welfare).

#### *Saba*

95. Although there have not yet been any incidences of homicide in the 15 to 24 age category, the medical sector on the island fears that there is a strong likelihood that this will happen sooner or later. Without more detailed investigation, tentatively can be concluded that this growing tendency to violence has a strong link to alcohol and drug abuse. Saba's hospital has applied to the island council for extra security during weekends, with the possibility of extending it for the entire week.

96. Increased police presence in problem neighbourhoods has resulted in a dramatic reduction in fights. Equally, the presence of extra hospital security has eliminated violent incidents.

97. Various care agencies on the island, and a number of organisations such as the AIDS Support Group Saba and Saba women's organisation, organise lectures for schools and community centres to raise young people's awareness of potential dangers. However, these lectures are held on an ad hoc basis and concentrate primarily on sexually transmitted diseases rather than physical violence.

#### **Mortality rates/Statistics**

##### *Curaçao*<sup>8</sup>

98. The most recent mortality rates for the age groups under 1 year, 1 to 4 years, 5 to 14 years and 15 to 24 years are given below. The only age group displaying a clear disparity between the male and female mortality rate is 15 to 24 years.

<sup>8</sup> Statistical Return, Public Health Department, Curaçao 1996-2000 (pp. 45-49).

### Age group under 1 year

99. Between 1991 and 1993 there were 13.5 stillborn children per 1,000 births. This had risen to an average of 17 per 1,000 by 1998-2000. The figures for infants who die in their first week have remained fairly constant (six per 1,000 births).

100. The following table shows the five leading causes of death of children under one year of age in the period 1998-2000 (excluding stillbirths). There was no notable difference in infant mortality between males and females.

	Cause	Percentage	CMR <sup>9*</sup>
1	Hypoxia, asphyxia and other respiratory conditions	23	2.7
2	Congenital defects	23	2.6
3	Slow foetal growth, undernourishment, immaturity	16	1.9
4	Other disorders originating in the perinatal period	8	0.9
5	Obstetric complications	7	0.7
Total		77	8.8

### Age group 1 to 4 years

101. On average, four children aged 1 to 4 years die on Curaçao annually. The following table shows the five leading causes of death of children aged 1 to 4 in the period 1998-2000. There is no notable difference in child mortality between males and females.

	Cause	Percentage	CMR <sup>10</sup>
1	Ill-defined conditions	20	0.10
2	Traffic accidents	20	0.10
3	Other accidents	13	0.07
4	Sepsis	11	0.04
5	Malign neoplasm in lymphatic/blood-forming tissues	11	0.04
Total		75	0.35

### Age group 5 to 14 years

102. There are also very few deaths among children aged 5 to 14 years; about four each year. The following table shows the five leading causes of death of children aged 5 to 14 in the period 1998-2000. There is no notable difference in child mortality between males and females.

<sup>9</sup> CMR = Crude Mortality Rate, the number of deaths per 1,000.

<sup>10</sup> CMR = Crude Mortality Rate, the number of deaths per 1,000.

	Cause	Percentage	CMR
1	Traffic accidents	28	0.04
2	Cerebrovascular disorders	17	0.03
3	Congenital defects	17	0.03
4	Other disorders (excl. 5)	17	0.01
5	Pulmonary circulatory disease and other heart disease	11	0.01
Total		90	0.12

### Age group 15 to 24 years

103. Until the age of 16, child mortality is more or less the same between males and females. However, from 16 onwards there is a sudden jump in mortality among boys, while mortality among girls remains at the low level recorded in other age groups. As a result, in this age group almost three times as many young men die as young women.

104. The first table shows the leading causes of death for the age group 15 to 24 as a whole, and therefore includes some causes of death that rarely apply to young women. For example, homicide is the leading cause of death for the age group as a whole, but in the period 1998-2000 not one woman aged 15 to 24 was murdered on Curaçao; all 12 victims were young males.

105. The second and third tables show, respectively, the leading causes of death in young men, and the leading cause of death in young women. The leading cause of death in women in this age group is traffic accidents; but, even so, in the period 1998-2000 more men were killed in traffic accidents than women (three women to eight men in the age group 15 to 24).

### Five leading causes of death in young people aged 15 to 24, 1998-2000

	Cause	Percentage	CMR <sup>11*</sup>
1	Homicide and injury deliberately inflicted by another	29	0.2
2	Traffic accidents	21	0.2
3	Disease (excl. 4)	8	0.1
4	Pulmonary circulatory disease and other heart diseases	6	0.1
5	Other external causes	5	0.1
Total		69	0.7

<sup>11</sup> CMR = Crude Mortality Rate, the number of deaths per 1,000.

**Five leading causes of death in young men aged 15 to 24, 1998-2000**

	Cause	Percentage	CMR
1	Homicide and injury deliberately inflicted by another	40	0.5
2	Traffic accidents	17	0.3
3	Suicide and self harm	8	0.1
4	Other external causes	7	0.1
5	Accidental drowning	5	0.1
Total		77	1.1

**Five leading causes of death in young women aged 15 to 24, 1998-2000**

	Cause	Percentage	CMR <sup>12</sup>
1	Traffic accidents	28	0.12
2	Pulmonary circulatory disease and other heart disease	20	0.10
3	Other disorders (excl. 4)	19	0.08
4	Diseases of the nervous system (excluding meningitis)	11	0.04
5	Malnutrition and anaemia	8	0.04
Total		86	0.38

**AIDS/HIV**

106. The following statistics represent the age group birth to 24 years and are based on information collected by:

- The Analytical Diagnostics Centre, Netherlands Antilles
- The Red Cross blood bank, Curaçao

107. The data reflects the situation in 2004, except the final table which covers the period 1985-2004.<sup>13</sup>

**New HIV infections in the Netherlands Antilles, 2004**

Age group	Male	Female	Total
<1	0	0	0
1-4	0	0	0
5-14	0	0	0
15-24	1	6	7
Total	1	6	7

<sup>12</sup> CMR = Crude Mortality Rate, the number of deaths per 1,000.

<sup>13</sup> Source: Statistical Return, Public Health Department, Curaçao 1996-2000 (pp. 68-70).

**New HIV infections on Curaçao, 2004**

Age group	Male	Female	Total
<1	0	0	0
1-4	0	0	0
5-14	0	0	0
15-24	0	4	4
Total	0	4	4

**New HIV infections on Bonaire, 2004**

Age group	Male	Female	Total
<1	0	0	0
1-4	0	0	0
5-14	0	0	0
15-24	0	0	0
Total	0	0	0

**New HIV infections on Sint Maarten, 2004**

Age group	Male	Female	Total
<1	0	0	0
1-4	0	0	0
5-14	0	0	0
15-24	1	2	3
Total	1	2	3

**New HIV infections on Sint Eustatius, 2004**

Age group	Male	Female	Total
<1	0	0	0
1-4	0	0	0
5-14	0	0	0
15-24	0	0	0
Total	0	0	0

**New HIV infections on Saba, 2004**

Age group	Male	Female	Total
<1	0	0	0
1-4	0	0	0
5-14	0	0	0
15-24	0	0	0
Total	0	0	0

**Total known HIV infections in the Netherlands Antilles, 1985-2004**

Age group	Male	Female	Total
<1	27	20	47
1-4	4	2	6
5-14	3	3	6
15-24	62	81	143
Total	96	106	202

**Article 12**

**Recommendations**

108. The Committee made several recommendations<sup>14</sup> regarding the right of the child to have his or her own views.

**Current situation**

109. The educational reforms introduced in primary and early secondary education by the draft National Ordinance on Foundation Based Education in the Netherlands Antilles reflect a new approach designed to encourage children to formulate and express their own opinions.

110. Children's opinions are taken into account. This is evident from changes to the education system and the existence of a number of agencies organising activities intended to benefit children. In particular, children and young people are encouraged to help advance their own rights. Examples of this are the Youth Parliament, conferences for young people, debates between young people and island councils and Youth Committees which organise public information activities for young people and adults.

**Youth Parliament**

111. The Youth Parliament, which does not operate a party system, always attracts more female than male participants. When the first Youth Parliament was assembled in 2001, 26 young people aged 21 and under participated, including at least one representative from each island; the composition was 11 young men and 15 young women.

112. In 2003 the first official election was organised by the local authorities. Most information about the election was distributed through schools. The age limit for participants was raised from 21 to 30. There were 31 eligible candidates of which 9 were male and 22 female. Voting was held in 21 polling stations. Young people aged 12 to 30 could vote, and more than 5000 did (most of whom were under 21).

113. In the 2005 elections 28 young people were chosen to sit in the Youth Parliament, of which 12 were men and 16 were female. Of these 19 persons were under the age of 18 years.

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<sup>14</sup> CRC/C/15/Add.186.

114. Members of the Youth Parliament follow a number of politics courses. They learn about the constitutional structure and political history, but also look into personal development, teambuilding and public speaking.

115. Financial limitations make it difficult to do this on a larger scale. The project organizer “Hoben Goberná” has been submitting grant applications to the government since 2001, with the hope of receiving ANG 50,000 on an annual basis. However, the only grant to date has been a one-off payment of ANG 25,000 in 2005.

### **Other activities**

116. Initiatives like the 4-Youth newspaper projects also get young people actively involved. Training courses in journalism are held by young people, for young people, on every island. Reporters are supervised by an adult, but young people themselves ultimately dictate the content of the newspaper. Each island has a designated journalism coach, who uses specially developed teaching materials.

117. The 4-Youth newspaper is published every two months throughout the Netherlands Antilles. Total circulation is 18,400 of which 4,400 copies in English and 14,000 in Papiamentu.

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

### **Articles 7 and 8**

#### **Recommendations**

118. The Committee is concerned that a high proportion of children are still not being registered at birth and therefore cannot exercise their rights. It recommends introducing various systems and procedures to encourage the immediate registration of births and to raise awareness in the community of the importance of registration of children. Special emphasis should be given to children from vulnerable groups, including those of immigrant families.

#### **Registration of births**

119. Although no campaigns are being conducted in the Netherlands Antilles to inform people of the importance of entering their children in the population register, all children must be notified to the Registrar of Births, Deaths and Marriages within five days of their birth. This requirement is explained to pregnant women by doctors, gynaecologists and midwives. All newborns are referred to a child clinic.

120. Previously, hospitals would not issue registration documents for children born to minority groups or poor families who could not afford to pay the hospital fees. As a result, these children were not entered in the population register within the prescribed period. In order to have such children registered, parents would have to pay a fine to the Public Prosecution Service. This measure was originally introduced to impress on parents the importance of registering their children, but it had the unintentional effect of placing an extra financial burden on less affluent groups.

121. The scheme was therefore abolished in 2005. Parents who now wish to register their child after the prescribed five-day period are simply required to notify the Public Prosecution Service without paying a fine. Generally speaking, the children of married couples tend to be registered on the day of their birth, those of single parents after one or two days (though usually within the five-day term), and those of poor parents often after five days.

### **Law on names**

122. A draft national ordinance amending Book 1 of the Civil Code of the Netherlands Antilles concerning the law on names was recently presented to the Minister of Justice. Article 5, paragraph 1 of Book 1 of the Civil Code currently states: “*The family name of a child shall be that of the father, otherwise it shall be that of the mother*”. Children born within marriage, children who are acknowledged by the father and adopted children therefore automatically take the family name of the father, without exception.

123. Some time ago, this system was judged by the Supreme Court of the Kingdom of the Netherlands to constitute gender discrimination in that it gave fathers preferential treatment over mothers without adequate justification.<sup>15</sup>

124. The amendment of Book 1 of the Civil Code creates the possibility for children in the future to be given either the family name of the father, the family name of the mother, the family name of the father followed by that of the mother, or the family name of the mother followed by that of the father (up to a maximum of two elements per family name). The ability to combine the names of the father and the mother is associated with the Spanish and Portuguese naming systems used in South America.

125. Another draft national ordinance to amend Book 1 of the Civil Code concerning judicial declarations of paternity is currently being debated. Article 199b of Book 1 of the Civil Code currently states that everyone has the right to know the identity of his/her natural parents. The new law aims to ensure that a child whose father does not wish to acknowledge paternity can nevertheless apply to a court to have that paternity established in law, with all the legal consequences to which this gives rise.

### **Articles 13 to 16**

126. These Articles concern the right of the child to freedom of expression, freedom of thought, conscience and religion, freedom of association and peaceful assembly, and the right to privacy.

127. Foundation Based Education,<sup>16</sup> the new approach to primary and early secondary education in the Netherlands Antilles is child-centred. Teaching was previously content-based, whereas now the focus is more on the child and its development. The new system has also brought in an extra area of study - general development - which introduces children to other religions and ethical beliefs. The right to freedom of expression and freedom of thought is also addressed.

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<sup>15</sup> Supreme Court, 23 September 1988, NJ 1989, 740, *Beukema and Van Veen*.

<sup>16</sup> Draft National Ordinance on Foundation Based Education.

128. Schools in the Netherlands Antilles are free to determine the religious principles on which they are based. As long as a religious or denominational body satisfies the legal requirements, it has the right to establish a school. There are both primary and secondary schools based on various religious denominations and ideologies in the Netherlands Antilles, which are subsidised by the island governments.

129. The National Ordinance on Foundation Based Education upholds Article 16 of the Convention, which states that schools are legally obliged to report violent or sexual offences committed by or against pupils, school personnel or others.

130. When upholding the rights defined in Articles 13 to 16, the education sector makes no distinction between different categories of children, such as poor or disabled children or the children of illegal immigrants. Schools often offer children from less affluent families breakfast and a hot midday meal. Transport to and from school is also available. Pupils whose parents have an income below a fixed level can also qualify for a study costs allowance.

### **Rights of the Child calendar**

131. This project, intended for schools, consists of a calendar with each month devoted to one of the rights of the child. The illustrations consist of photographs taken by children themselves during a 2004 project of the Federation of Antillean Youth Care on the rights of the child. Each month also features a teaching aid. The aim is to prompt a discussion of children's rights in social studies lessons. The project receives commercial sponsorship.

### **Article 17**

132. Since culture policy is the responsibility of individual island governments, the issuing, exchange and dissemination of information and material from the various cultural sources is a matter for each island territory. Central government only plays an enabling role.

### **Access to information and education**

133. Since innovations in teaching and international developments in technology have made computers vital for the education sector and schools, various efforts are therefore under way to equip schools with computers. While no distinction is made between children, disparities can nevertheless arise due to their socio-economic backgrounds. Children from less affluent homes and immigrant families tend to have less access to computers, books and newspapers since their parents often cannot afford them. Language is also a common stumbling block for access to information.

134. Innovations in education and the introduction of the Foundation Based Education, which allows Papiamentu to be used as the language of instruction on Curaçao and Bonaire, have made it vital for more teaching materials to be published in this language. This will enable children whose mother tongue is Papiamentu to keep up with their peers. All the islands have a public library with a children's section. Curaçao and Sint Maarten also have a mobile library which tours various neighbourhoods. Some schools have their own libraries.

### *Curaçao*

135. A few primary schools on the island have a computer room but these are by no means all operational. While the majority of schools have access to at least one computer, it is often only used for administrative purposes. So these schools have no computers which both teachers and pupils can use as a teaching aid. Schools that do have access to more than one computer often cannot afford to pay for an Internet link. There are also connection problems. Functioning computers are available in schools offering pre-university education (VWO) and senior general secondary education (HAVO) but there is insufficient access to computers in pre-vocational secondary education (VSBO) schools.

### *Saba*

136. On Saba, UNESCO has approved a grant for a school radio project which will teach schoolchildren how to make a radio programme. Pupils on Saba are also producing a bi-monthly television report on classroom activities as part of the Foundation Based Education curriculum. The report, "Schoolvideo Magazine", is broadcast by the local cable company.

### **Access to information and the media**

137. Preceding the National Ordinance on Media Policy, which is currently awaiting adoption, a code of conduct was drawn up in 2005 for radio and television stations in the Netherlands Antilles as part of a strategy to encourage the mass media to broadcast information and material promoting the social and cultural development of minors. It was felt that these guidelines would provide some level of supervision. The government of the Netherlands Antilles sets aside an annual budget for media policy (ANG 45,000 in 2005 and ANG 20,000 in 2006).

138. Despite the introduction of code of conduct, the mass media makes little provision for the language needs of children from minority groups. Most newspapers, radio and television programmes are in Papiamentu and Dutch on Curaçao and Bonaire and in English on the Windward Islands. Children are given little protection from harmful material broadcast on cable television.

### **Article 37 a**

### **Recommendations**

139. In response to the initial report, the Committee recommended that the Netherlands Antilles make all necessary effort to ban all forms of child abuse.

### **Advice and Reporting Centre for Child Abuse and Neglect (ARC)**

140. In 1999 a Working Group on Child Abuse was established on the initiative of the Child Protection Agency. It consists of 18 government and non-government organisations which together address the growing problems confronting children. One of its key aims is to set up an Advice and Reporting Centre for Child Abuse and Neglect on all the islands, where suspected cases of child abuse can be reported anonymously.

141. Although the working group has been trying to obtain a grant for the ARC from the Netherlands Antilles government since 2003, the project is not yet a reality. The creation of an ARC, needed on all the islands, has therefore not yet been included in the budgets of the island territories. In order to make a start on the initiative, the Child Protection Agency established the “Sentro Jo Hermans” (Jo Hermans Centre) on Curaçao in June 2006. This centre operates in the same way as an ARC and is located in the offices of the Child Protection Agency, where help is provided by trained volunteers.

142. The policy of the Netherlands Antilles is that the island governments are primarily responsible for protecting at-risk minors. However, there is no single service at either state or island level with the specific task of informing local communities of the dangers of child abuse. The public is given no information about where to go for help or advice. As a result, little can be done to promote prevention, and interventions are often too late. This lack of initiative by the central and local authorities has prompted NGOs fill the gap, but this makes it more difficult for the public to know where to go.

143. As well as opening a number of telephone helplines for children, as discussed more fully below, another possibility is to ask the Guardianship Councils to act as reporting centres for child abuse. All the islands have Guardianship Councils, although the one on Sint Eustatius is currently unstaffed. Their statutory tasks and responsibilities include ensuring the psychological, physical and material well-being of minors.

144. The Family Supervision Agencies on each island will report child abuse by non-family members to the Public Prosecution Service and the Juvenile and Vice Police Squad, which will take the case further. The Public Prosecution Service may decide to place a minor under the supervision of the Guardianship Council to protect him or her from sexual or physical abuse.

145. Child abuse committed by non-family members can also be reported directly to the Juvenile and Vice Police Squad by private individuals. Child abuse by family members is dealt with by the Guardianship Council. The Guardianship Council and the Public Prosecution Service can, following an investigation, refer the case to the courts. If the court believes there is a serious threat to the child’s moral or mental well-being and attempts to avert this threat have failed or are thought likely to fail, it can place the child under a supervision order. The family is then monitored via the Family Supervision Agency. If necessary, the child can be removed from the family environment and placed with a foster family or in residential care.

146. While no distinction is made in terms of disability, poverty, legitimacy, ethnic background or legal residence status when protecting children from abuse, these factors nevertheless raise difficulties. Children with severe behavioural problems are hard to place with foster families or in residential institutes. Children with a disability are rarely placed under a supervision order because the Guardianship Council cannot find anywhere to cater for their special needs. The Netherlands Antilles has no residential facilities for disabled children.

### **Child helpline**

147. Although the Child Protection Agency has had a care contract with the island territory of Curaçao to operate a telephone helpline for children since 2004, financial difficulties and changes to the telecommunications technology have meant that it did not become active until

November 2006. The idea of establishing a child helpline arose out of international developments to combat child trafficking, child prostitution and child pornography, which identified child helplines as the most effective instrument. The child helpline number for the Netherlands Antilles is 918. The switchboard is manned 24 hours a day.

148. In 2005 the Child Protection Agency gave intensive basic training to 21 helpline operators. Follow-up training was provided in 2006. These courses were based on the guidelines prescribed by Child Helpline International, to which the Child Protection Agency has been affiliated since December 2005.

149. As well as a shortage of funds to finance a systematic approach to the problem, public ignorance about where to report child abuse is a serious stumbling block for the islands. As a result, incidences of child abuse or mistreatment often go unreported. Even when a case of suspected child abuse is notified and referred to the investigative authorities, there is a danger of priority cases ending up on the waiting lists of existing youth care services, with detrimental effects for the child.

### **The Family Supervision Agency**

150. In terms of family supervision, the Family Supervision Agencies on the islands monitor children who have been placed under a supervision order and their parents, with the ultimate aim of repairing the parent-child relationship. Parents are given counselling by family supervisors and are obliged to follow all the recommendations they make. Where necessary, the family supervisor liaises with other authorities and agencies to promote the welfare of both the child and its parents.

#### *Curaçao*

151. The Family Supervision Agency on Curaçao implements the supervision orders issued by the children's judge. It supervises approximately 350 children and their parents. The actual work of supervision is carried out by eight staffmembers with a small budget from the Ministry of Justice.

#### *Bonaire*

152. The Family Supervision Agency on Bonaire runs a chat group for the parents of children up to 18 who have been placed under a supervision order. The project, which has been subsidised by the Netherlands Antilles Youth Fund (JENA) since 2003, is intended as a forum where parents can discuss their problems. The discussion groups also widens their social network, encouraging mutual support. This is important, given that most of these individuals are raising their children alone. The discussion groups are held four times a year, and each session is attended by an average of eight people. The initiative could therefore reach 32 families a year.

153. In conjunction with the Bonaire Youth Care Foundation, the Agency is conducting a public awareness campaign to improve the way incest is identified and reported. The aim is to give social workers, caretakers, primary school teachers, pupils and the general public a better understanding of the problem. A telephone helpline was opened in December 2006 to enable people to report suspected cases of incest.

154. The Bonaire Youth Care Office is organising a large number of get-togethers for parents and children, to encourage parents to make a better educational, social and psychological contribution to their children's lives. The initiative is aimed at children aged between 4 and 13. The programmes are held in community centres every three months. Attendance is non-compulsory, so participant numbers are low.

#### *Sint Maarten*

155. On Sint Maarten, children who have been abused or mistreated may be temporarily placed in a residential care home through the mediation of the Guardianship Council. However, this is only done as a last resort if the minor cannot be housed with family members, which is the preferred option.

156. Combating the abuse of children on the island was one of the spearheads of the Guardianship Council's annual plan for 2003. Initiatives centred on raising public awareness of the physical, psychological and sexual abuse of children aged mainly between 0 and 18.

157. The Guardianship Council organised various activities to achieve this goal, including talks and workshops on parenting support with the Sentro di Informashon I Formashon na bienestar di Mucha, (SIFMA). Regular discussions were also held with the Public Prosecution Service, the Court of First Instance and justice agencies. The police force, in particular the Juvenile and Vice Police Squad, give talks for children at schools regarding child abuse.

#### *Saba*

158. On Saba, children who have been abused are either placed with a suitable foster family or sent to Curaçao or Sint Maarten to be placed in a residential home. Those who remain on Saba are given psychological counselling by the psychologist on the island or by a staff member at Saba University School of Medicine.

159. On Saba, public information about child abuse is disseminated through leaflets, talks and workshops, as well as in schools.

160. Saba has a shortage both of relevant professionals and of facilities where children can be given short or long-term support and after-care. The possibility of being removed from a familiar environment, including from the island itself, is one reason why many victims fail to report abuse.

#### **Care and treatment, recovery and social reintegration**

161. Where necessary, the Guardianship Council will arrange for victims of child abuse to be placed under a supervision order or removed from the family home. Some children are referred to institutions providing psychosocial treatment, such as the Child and Youth Department of the Perspektiva i Sosten Integral (PSI) Foundation on Curaçao. The PSI provides care and treatment, recovery and social reintegration through therapy and counselling and, where necessary, voluntary placement in a foster home or residential institution.

### *Curaçao*

162. The Juvenile and Vice Police Squad on Curaçao investigates cases involving the physical abuse of children. Physical abuse is generally committed by individuals aged over 18. Such investigations should in fact be carried out by the Criminal Investigation Department, but the Criminal Code of the Netherlands Antilles (WvSrNA) does not provide for this. It was therefore decided internally that the physical abuse of infants, young children and adolescents below the age of 16 would be investigated by the Juvenile and Vice Police Squad. All cases of sexual abuse are investigated by the Juvenile and Vice Police Squad.

163. Children who have been subjected to psychological abuse or neglect are referred to the Child and Youth Department of the PSI for professional treatment, and to the Guardianship Council in respect of matters relating to fostering. Minors are also referred to the Child and Youth Department of the PSI for professional treatment following criminal investigations.

164. In the event of a supervision order, the Court of First Instance appoints someone to supervise the child under the authority of the Court. The role of the family supervisor is to promote the well-being of the child. This includes advising the parents on how best to raise and care for their child.

### **Training of professionals**

165. The professionals who work with children are not systematically trained to identify, report and respond to cases of child abuse or to do so in line with a generally accepted policy. Instead, professional training is provided mainly through courses and workshops held by organisations like the Child Protection Agency Curaçao, SIFMA on Curaçao and the Windward Islands and the Sentro Boneriano di Informashon Edukativo pa Kuido Infantil (Bonaire Foundation for Educational Information for Infant Care or SEBIKI) on Bonaire. Staff working for organisations offering psychosocial care or agencies like the Juvenile and Vice Police Squad are trained in juvenile and vice-related crime or have attended the relevant specialist courses.

### **Support for victims and witnesses**

166. The Juvenile and Vice Police Squad on Curaçao ensures that victims who are minors are generally not required to be present in court. Although the defendant's lawyer can ask the judge for permission to put certain question to victims or witnesses, the victims and witness statements in the official report are generally deemed sufficient. Victims of sexual abuse who are under 12 are questioned privately during an interview which is filmed. An official transcription of the interview is then drawn up and the film is placed at the judge's disposal.

167. If a victim cannot cope with the pressure of a court case, the PSI on Curaçao will consider whether the relevant social worker(s) can appear on his or her behalf or provide support and advice during proceedings. Where necessary, it will also try to place victims in a "Kas di Sokoro" (shelter house), where they are given care and counselling by PSI social workers.

## **Funding**

168. The Guardianship Councils in the Netherlands Antilles and the Family Supervision Agencies on Curaçao, Bonaire and Sint Maarten receive grants from central government. Four per cent of the annual budget of the Ministry of Justice is set aside for the direct implementation of child protection measures. Each island needs to formulate a decentralised policy on tackling and preventing child abuse, plus a related financial plan.

169. The Family Supervision Foundation on Bonaire reports that levels of external financing fluctuate year by year. In 2005, for example, the agency received € 30,000 from the Oranje Fonds to fund a public awareness campaign to encourage better identification and reporting of incest. In 2004 family supervision projects were allocated approximately ANG 10,000 in external financing.

## **Research into child abuse**

170. The only investigation of child abuse the one carried out by the police in the course of a criminal investigation. Such investigations rarely seek to establish the scope and effects of child abuse. As a result, efforts to combat child abuse and its associated problems are inadequate and are often tackled on an ad hoc basis.

## **Child helpline**

171. Although the Child Protection Agency has had a care contract with the island territory of Curaçao to operate a telephone helpline for children since 2004, financial difficulties and changes to the telecommunications technology have meant that it did not become active until November 2006. The idea of establishing a child helpline arose out of international developments to combat child trafficking, child prostitution and child pornography, which identified child helplines as the most effective instrument. The child helpline number for the Netherlands Antilles is 918. The switchboard is manned 24 hours a day.

172. In 2005 the Child Protection Agency gave intensive basic training to 21 helpline operators. Follow-up training was provided in 2006. These courses were based on the guidelines prescribed by Child Helpline International, to which the Child Protection Agency has been affiliated since December 2005.

173. According to the financial accounts of the Child Protection Agency on Curaçao for 2004 and 2005, the island territory allocated its child helpline an annual budget of ANG 144,438 and ANG 150,000 respectively.

## **Statistics**

### *Curaçao*

174. An overview of the number of new cases reported each year is shown below, together with the total number of minors placed under supervision by the Family Supervision Agency due to abuse. The Agency continues to supervise the child and its parents for an average of three-and-a-half years. The tables reflect the extent of the problem, which often involves the same children year-on-year. This applies to all the tables below.

**Annual overview of new cases reported and ongoing supervision orders**

Year	New cases reported to the Family Supervision Agency	Total number of children under supervision
2002	78	301
2003	111	378
2004	71	339
2005	52	334

**Number of cases of neglect/abuse and sexual abuse (Guardianship Council)**

Cases	2003	2004	2005	2006 (to Oct.)
Neglect/abuse	50	38	25	55
Sexual abuse				3

**Notifications of abuse to the Child Protection Agency, by number and type**

Notifier	Oct. to Dec. 2003	2004	2005
Client	1	24	6
Mother	12	52	34
Father	1	25	19
Grandmother	5	19	9
Grandfather	1	1	-
Foster mother	1	5	2
Other (aunt, neighbour, acquaintance)	4	36	22
Institutions (DSH*, SGE**, Police, Isla***)	6	28	7
School	5	20	13
Anonymous	14	44	12
<b>Total</b>	<b>50</b>	<b>254</b>	<b>124</b>

\* DSH: Departamentu Salú Hubenil/Youth Health Care Service.

\*\* SGE: Sentro Guia Edukashonal/Centre for Educational Guidance.

\*\*\* Outpatients' clinic for the Isla refinery on Curaçao.

**Requests for assistance to the Child Protection Agency Curaçao, by number and type**

	Oct. to Dec. 2003	2004	2005
Requests for assistance due to:			
Physical abuse	4	34	21
Physical neglect	2	12	18
Psychological abuse	14	69	36
Emotional neglect	5	59	37
Cognitive neglect	5	19	1
Pedagogic neglect	9	36	2
Material neglect	2	10	2
Sexual abuse	9	21	13
<b>Total</b>	<b>50</b>	<b>260</b>	<b>130</b>

**Assistance given by the Child Protection Agency Curaçao, by number and type**

	Oct. to Dec. 2003	2004	2005 <sup>17</sup>
Information	37	118	6
Advice	6	92	55
Mediation	17	67	11
Counselling	1	2	2
Referral	26	87	46
Boys	38	160	95
Girls	34	151	80
<b>Total</b>	<b>72</b>	<b>311</b>	<b>175</b>

**Total number of PSI<sup>18</sup> clients on Curaçao and Bonaire per year,  
by age category and gender**

Total number of clients	2003		2004		2005		2006 (Jan./June)	
	Male	Female	Male	Female	Male	Female	Male	Female
0-4 years	19	14	34	19	34	18	35	19
5-9 years	185	81	189	86	193	90	160	103
10-14 years	251	113	255	137	254	130	195	117
15-19 years	95	79	98	100	94	106	62	67
<b>Total</b>	<b>550</b>	<b>287</b>	<b>576</b>	<b>342</b>	<b>575</b>	<b>344</b>	<b>452</b>	<b>306</b>

**Type and number of offences reported to the Juvenile and Vice Police Squad of Curaçao\***

	2002	2003	2004	2005	2006 (Jan. to June)
Type of sexual abuse					
Rape	33	22	30	-	12
Attempted rape	5	9	4	-	
Sexual contact with a girl aged below 12				-	7
Sexual contact with a girl aged between 12 and 15				-	11
Indecent acts				-	54
Other sex-related offences	30	40	35	-	15
<b>Total</b>	<b>68</b>	<b>71</b>	<b>69</b>	<b>-</b>	<b>69</b>

\* *Source:* Juvenile and Vice Police Squad, Curaçao police force.

<sup>17</sup> The service came to an almost complete standstill in February, March and July 2005 due to the need for renovations and repairs to the office following vandalism by intruders.

<sup>18</sup> Fundashon Perspektiva i Sosten Integral.

**Type and number of offences on the Windward Islands, 2002-2004\***

Offences	2002	2003	2004
Indecent acts with minors	6	3	
Indecent acts with underage boys	1		
Indecent acts with underage girls	5	3	
Indecent acts with stepchild/foster child	2		
Rape	5	2	3
Unlawful deprivation of liberty	1		
Public indecency		1	
Assault	3	3	5
Sexual assault		2	2
Assault with a weapon		6	1
Failure to pay maintenance		7	2
Duress (verbal)		1	1
Theft		2	
Public acts of violence		6	
Robbery/Armed robbery		3	
Possession of firearms		1	
Mediation in cases of assault on a minor		11	2
Runaway minors		13	
Mediation in cases of threatening behaviour towards a minor		3	1
Mediation in cases of delinquent behaviour by minors		12	
Total	23	79	17

\* *Source:* Juvenile and Vice Police Squad, Sint Maarten, Saba and Sint Eustatius police forces.

**V. FAMILY AND ALTERNATIVE CARE**

175. The committee's recommendations relate mainly to Article 18 paragraphs 1 and 2, Article 20 and Article 27 paragraph 4.

**Article 18**

**Recommendations**

176. In response to the initial report, the Committee recommended that the Netherlands Antilles: take steps to ensure that parents and families understand and fulfil their obligations towards their children, and give consideration to means of providing families with extra support; establish an effective mechanism for the provision of adequate social welfare and introduce a national policy on daycare services with a view to ensuring uniformity across all islands.

## **Responsibility towards children**

177. Parents are encouraged to exercise their responsibilities by SIFMA<sup>19</sup> on Curaçao and the Windward Islands and the Bonaire Foundation for Educational Information for Infant Care or SEBIKI, as well as by central government and the individual island governments.

### *Curaçao and the Windward Islands*

178. Each year, SIFMA offers various forms of parenting support on all the islands, for example through the “Opstap Opnieuw” programme, in an effort to help parents and families understand and exercise their responsibilities towards their children more effectively. Parenting support is provided through courses and workshops covering different child-rearing themes. The workshops are intended both for parents and crèche leaders. Use is also made of the media through regular articles in newspapers and discussions of relevant themes on the radio and television. Leaflets on parenting issues are also distributed.

179. The “Opstap Opnieuw” incentive programme is a development-based programme for children of four to six and their parents. Its aim is twofold: to foster interaction between parents and children, and to improve educational opportunities for children. “Opstap Opnieuw” is a two-year programme for parents whose own education did not progress beyond junior general secondary school (MAVO) level, and their children.

### *Bonaire*

180. SEBIKI holds courses for parents and crèche leaders and provides support for teenage mothers in the form of discussion groups. It also loans out information packs to parents and child welfare centres and offers practical support to parents in various neighbourhoods. Between 2002 and 2006 the number of courses and parenting support initiatives was increased and the family support programme “Opstap Opnieuw” was extended for at-risk families in all neighbourhoods.

## **Extra support for families**

### *Curaçao*

181. One form of extra support for families is the appointment of school attendance officers. If a child of compulsory school age fails to attend school for a prolonged period, the Educational Affairs Service on Curaçao will contact its parents. Once it has established the reason for non-attendance, the school attendance officer will act as a facilitator or intermediary to get the pupil back to school.

### *Bonaire*

182. Parents on Bonaire are given the opportunity to attend chat groups, as mentioned under IV Civil Rights and Freedoms.

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<sup>19</sup> Sentro di Informashon i Formashon na bienestar di Mucha, (SIFMA).

*Sint Maarten*

183. The Victorious Living Foundation runs mentorship programmes and offers supervision and advice to young people and their parents. Both the Foundation and various community centres provide after-school childcare and workshops for youngsters.

*Sint Eustatius*

184. A family therapist has been based on the island since February 2005 to help prevent family break-ups and promote reconciliation. The churches also hold conferences and intensive courses on the family. Each year, the Department of Culture organises a programme for families which ends with two or more exemplary families being selected as role models. These families are given extensive media coverage and their example encourages other families to make similar efforts.

**Measures to formulate a national childcare policy**

185. In 2001 a national childcare policy was formulated in the Netherlands Antilles. This policy is used as the basis for the policies of the individual island governments.

186. To ensure that policy and policy practice tie in as closely as possible with day-to-day reality, inventories were compiled of the existing situation in childcare centres on all the islands. Although they differed widely, all the reports addressed the minimum quality requirements set down in each island ordinance.

187. The resulting report, “Een beschrijving van de thuissituatie van en het opvangaanbod aan 3-jarige kinderen op de Nederlandse Antillen”<sup>20</sup> (An account of the home environment of and childcare facilities for three-year-old children in the Netherlands Antilles) yielded the following data for each island.

*Curaçao*

188. Curaçao introduced an Island Ordinance on Childcare Centres many years before the national childcare regulations were drawn up.<sup>21</sup> Government policy focuses mainly on crèches and nursery schools. The quality standards laid down in the island ordinance relate mainly to these forms of childcare. However, due to the absence of both a quality commission and a supervisory body, many childcare centres fail to meet these standards.

189. Each year, the government of Curaçao sets aside a fixed amount of approximately ANG 3 million to finance childcare provision on the island. Until a few years ago, this allocation covered nine crèches that were fully subsidised. Changes to the system transferred grants from

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<sup>20</sup> Office for Process Management of Educational Reform on Curaçao, September 2006.

<sup>21</sup> National Policy Framework on Early Childhood Care and Development.

the crèches to economically disadvantaged parents. Curaçao is currently in a transition phase in which the nine crèches that were previously fully subsidised now offer a number of subsidised places for the children of parents on low incomes.

#### *Bonaire*

190. A Working Group on Integrated Preschool Policy for the Island Territory of Bonaire was set up on the island in 1997. It includes all relevant government and non-government organisations. The working group has drawn up a draft island ordinance containing regulations governing the quality and introduction of a licensing system for childcare centres. The draft ordinance has been submitted to the island executive and is now awaiting ratification by the island council.

191. The government of Bonaire is currently meeting the running costs of two childcare centres for which it sets aside ANG 108,000 a year. All other childcare centres are unsubsidised and rely on parental contributions, donations and fund-raising activities.

192. The government intends to make childcare for three to four-year-olds a universal basic provision, due to the need to ensure their smooth progression to Foundation Based Education. This implies a change in the grant system similar to that on Curaçao, with grants no longer being awarded to the childcare centres themselves but to economically disadvantaged parents.

#### *Sint Maarten*

193. In 2001 an Island Ordinance on Quality Standards for Childcare Centres was adopted on Sint Maarten. In the same year, a commission was appointed to formulate a policy plan linked to this ordinance. The plan was based on the National Policy Framework on Early Childhood Care and Development, as it had been on Curaçao. The policy plan has two central objectives: to enable all children to obtain a good grounding for Foundation Based Education and to develop high quality childcare programmes.

194. In 2004 a quality commission was appointed to help childcare centres reach the necessary standards. Its specific task was to ensure that early childhood care and development was included on the political agenda and that all childcare centres would gradually improve to meet the requisite standards by 2010. However, one difficulty is that the island authorities have no budget allocation for subsidising childcare. Childcare on Sint Maarten is financed entirely through parental contributions and project aid.

#### *Sint Eustatius*

195. A draft island ordinance was drawn up in 2003 setting out rules and conditions to promote a caring, stimulating childcare environment. The ordinance will soon be implemented and its minimum quality standards universally applied.

196. The island government of Sint Eustatius sets aside approximately ANG 550,000 each year to fund preschool childcare and education. Although there are other childcare centres on the island, the authorities only subsidise one. However, this centre caters for the vast majority of children who are receiving preschool provision.

*Saba*

197. Saba has also set minimum quality standards governing childcare centres. These were approved by the Island Council in 2004. New childcare centres must now be licensed and must meet a number of general quality requirements.

198. The childcare centre on Saba is subsidised by the government.

**Parenting support and education**

199. The education sector is also devoting attention to early childhood learning. The new approach to primary and early secondary education throughout the Netherlands Antilles makes special provision for three-year-olds from disadvantaged backgrounds, to ensure that they derive maximum benefit from preschool provision and their progression to the first year of education runs smoothly. This prevents children from entering regular education with a learning disability or other disadvantage. A framework curriculum has therefore been developed to help professionals working with three-year-olds.

200. Both the Netherlands Antilles and the individual island governments have drawn up plans and been given funding to make a number of key improvements in preschool provision. The following priority areas were identified:

1. Organisation and implementation of a joint curriculum;
2. Quality control;
3. Increasing professionalism;
4. Play and early learning aids;
5. Communication.

201. Over ANG 4 million has been allocated to these improvements. An initial draft of the joint curriculum has already been discussed with the relevant stakeholders, and all the islands have begun implementing the activities set out in their plans.

**Parenting support and the media**

202. Another effective resource which is used to support parenting on all the islands is the media. Radio and television programmes can disseminate information to a large number of parents, teachers and legal guardians to help extend their knowledge.

203. NGOs also organise a wide range of courses and workshops on parenting support for parents and guardians. The tables below list the organisations that organised courses or workshops each year, the neighbourhoods they covered and the bodies that provided them with funding.

### Childcare facilities and accessibility

204. The question of how many childcare facilities there are on each island is not always easy to answer. Not all childcare centres are centrally registered. Moreover, turnover on the bigger islands is high in the sense that many centres only operate for a short period of time.

205. The table below shows the amount of childcare facilities on each island. Child minders are not registered on Curaçao or Sint Maarten, so there are no statistics available for these islands. Child minders are individuals who offer childcare in a home environment for up to four children simultaneously from the age of four weeks to the age at which they start school.

	Crèches	Nursery schools	Child minders	Total
Curaçao	107	28	-	135
Bonaire	15	0	4	19
Sint Maarten	35	0	-	35
Sint Eustatius	2	0	2	4
Saba	1	0	0	1
Total <sup>22</sup>	160	28	6	194

206. The table below shows the average number of 0-4 year-olds attending a childcare centre on each island, including those on waiting lists. Child minders are not registered on Curaçao or Sint Maarten, so there are no statistics available for these islands. Child minders are individuals who offer childcare in a home environment for up to four children simultaneously from the age of four weeks to the age at which they start school.

	Curaçao	Bonaire	Sint Maarten	Sint Eustatius	Saba
Total number of 0-4 year-olds	3 144	431	1 137	118	48
Total 0-4 year-olds on waiting lists	-	40	27	0	3

#### *Curaçao*

207. The composition of the population of Curaçao in 2002-2005 was as follows, classified according to numbers of inhabitants, households and 0-4 year-olds:

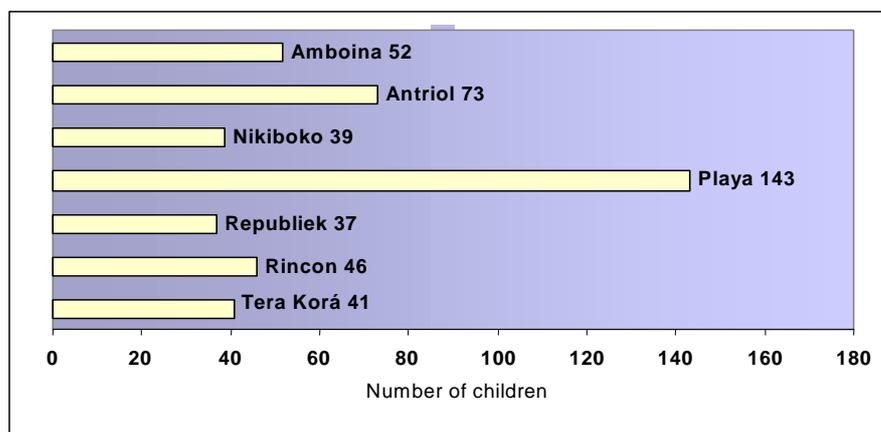
Population breakdown: <sup>23</sup>	2002	2003	2004	2005
Total inhabitants	126 816	129 944	133 644	135 822
Total households	42 603	44 386	unknown	unknown
Total 0-4 year-olds	8 638	9 032	9 385	9 442

<sup>22</sup> Inventory Report. An account of the home environment of, and childcare facilities for, three-year-old children in the Netherlands Antilles, Office for Process Management of Educational Reform, Curaçao, September 2006.

<sup>23</sup> Table: Age distribution on Curaçao, January 1st; [www.cbs.an/population/population\\_b3b.asp](http://www.cbs.an/population/population_b3b.asp).

*Bonaire*

208. The report gives the following figures for Bonaire, based on baseline measurements carried out between April and July 2005. It found that a total of 431 children attended 15 centres in various neighbourhoods. The number of children attending childcare centres in the biggest of these neighbourhoods is shown below.



**Article 20**

**Recommendations**

209. In response to the initial report, the Committee recommended that the Netherlands Antilles:

- Develop programmes to facilitate alternative care in the Netherlands Antilles, in particular foster care on the Windward Islands
- Strengthen efforts to improve the quality of care available
- Implement the island ordinances on alternative care more effectively
- Ensure that placements in institutions are periodically reviewed
- Establish an independent complaints mechanism for children in alternative care institutions

**Current situation**

210. Various measures have been taken to improve the standard of alternative care in the Netherlands Antilles.

211. Unemployed 16 to 24 year-olds who are not studying or being trained are at risk of becoming socially and economically marginalised. On 25 February 2006, the government of the

Netherlands Antilles therefore introduced the National Ordinance on Compulsory Youth Training (CST).<sup>24</sup> This obliges young people below the age of 24 who have no educational qualifications to train themselves to a level where they can reasonably expect to secure a job. The aim of the national ordinance is to reduce youth unemployment and youth crime and improve social cohesion.

212. The National Ordinance on Compulsory Youth Training took effect throughout the Netherlands Antilles in 2006 and primarily addresses the right of children and young adults aged between 16 and 24 to develop their potential and support themselves.

213. The programme provides training schemes through which young people can acquire occupational skills. By November 2006 these courses had attracted 565 participants, approximately 100 of whom were members of a test group. A high proportion of youngsters in the test group were found to have development problems. These problems were addressed through the introduction of a care strategy which helped them to develop a wide range of social skills. They had to complete the social development component before they could move on to the occupational skills course. The programme includes a crèche facility to enable young adults with one or more children to take part.

214. These skills development courses are now well under way on Curaçao and Bonaire and have helped many young people to find employment. On Saba, the national ordinance is still awaiting implementation. On Sint Eustatius and Sint Maarten, participants are still engaged on the main course and will enter the labour market slightly later. Another initiative being developed in the context of the programme is the creation of employment strategies to help young people secure a job when they have completed the course.

215. As well as introducing skills development courses, the national ordinance also established a youth register on each island listing all 16 to 24 year-olds who are not in fulltime education. The registers record their enrolment on skills development courses and chart their progress. This allows the development of young people on each island to be monitored. There is also an obligation on schools to report non-attendance.

216. A proposal for a residential accommodation project has been submitted to the Netherlands Antilles Development Fund (USONA) in the context of the National Ordinance on Compulsory Youth Training. It is intended mainly for young people who refuse to enrol on the courses or whose circumstances prevent them from successfully completing the training. Residential accommodation for youngsters from the Windward Islands will be provided on Sint Eustatius and for youngsters from the Leeward Islands on Curaçao.

217. Various authorities on the islands have also taken their own measures to cater for youngsters who can no longer live at home. On Curaçao, children can be placed with the Child and Youth Department of the Fundashon Perspektiva i Sosten Integral (PSI) at their own request. On Bonaire there are plans to open a wing for girls at the Sister Maria Höppner residential care home. For financial reasons, this will not be ready before 2008. On Sint Maarten the "I Can

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<sup>24</sup> National Ordinance, Official Bulletin 2005, no. 72.

Foundation” and “Crystal Home” have submitted an application under the Netherlands Antilles Public Safety Plan (Plan Veiligheid Nederlands Antillen, PVNA) for a grant to finance a youth detention centre. Finally, on Sint Eustatius a funding application has been submitted for the establishment of a large foster home.

218. Despite these initiatives, there is no foster care coordination centre on any of the islands to match children with potential foster parents.

#### *Curaçao*

219. Curaçao was forced to close its foster care coordination centre in 2000 due to lack of funds. Many minors from the other four islands are referred to the Family Supervision Agency on Curaçao for alternative care and supervision. These children frequently suffer from homesickness and alienation.

#### *Bonaire*

220. The Family Supervision Agency on Bonaire is setting up a foster care coordination centre. It currently has eight foster families on its books. Despite this, there is still a shortage of alternative residential care on Bonaire for children who have to be separated from their parents.

#### *Sint Maarten*

221. A new NGO, Network Organisations for Minors (NOM), has been established on Sint Maarten by a group of youth work organisations. NOM is a centralised discussion platform which facilitates referrals by sharing information about individual cases and how they are dealt with among all concerned.

222. On the Windward Islands a Custodial Institutions Foundation has been established by the Family Supervision Agency and the Dutch Probation Service.

### **Quality of alternative care**

223. The quality of alternative care, including the necessary infrastructure and training of group social workers, must be improved. In the Netherlands Antilles, lack of funding is the main reason for the failure to achieve optimum quality. An advisory report published in 2004 by the government audit office, Stichting Overheidsaccountants Bureau (SOAB), concluded that the daily allowance paid to residential care homes for children placed under a supervision order must be increased. However, neither the national nor the island authorities adopted this recommendation.

### **Training of social workers**

224. There is no systematic training of social workers. They receive most of their information and supplementary training about youth work and children’s rights informally in the workplace or at conferences organised by the residential institutions themselves or by national authorities such as the Youth Development Department. Workshops and courses on the rights of the child are also given by organisations like SIFMA and the Child Protection Agency.

### **Periodic review of placements in an institution**

225. Children who are removed from their parents and placed under a court supervision order are assigned a family supervisor. The length of alternative care varies between two and eight years in a residential care home and one and six years in a foster family. The family supervisor reviews the situation every three months with the child's biological parents and the residential care home or foster parents. The case is personally reassessed once a year by a children's judge. A supervision order can be lifted and the child returned to its parents at any time prior to the expiry of the supervision order, provided this is appropriate or feasible.

226. The draft National Ordinance on Youth Care will include a review of legal supervision throughout the care process, including a periodic evaluation of alternative care. The Act is not yet in force.

### **Establishment of a complaints bureau for children in alternative care**

227. Although this question is covered in the draft National Ordinance on Youth Care, the absence of a complaints bureau within the alternative care system is regarded as a major shortcoming. At present, all children placed in alternative care must submit complaints to the Guardianship Council or to the children's judge when a hearing takes place.

### **Increasing government support for NGOs working in alternative care**

228. The government sets the allowance paid to residential care homes, foster families and NGOs. However, this amount is not always enough. It generally takes the form of a daily allowance rather than material assistance. The government has tended to reduce its contributions in recent years.

#### *Bonaire*

229. On Bonaire, the authorities support the "Porta Habr" youth care information and advice centre. They have also concluded a care contract to provide the Sister Maria Höppner residential care home with an annual ANG 175,000 grant.

230. The Guardianship Council on Bonaire sets aside ANG 720,000 each year to cover its operational expenses, including staff salaries. Approximately ANG 250,000 is used to finance the placement of children in foster families or residential care homes.

#### *Sint Maarten*

231. On Sint Maarten, the Guardianship Council earmarks ANG 720,000 each year to finance placement orders and alternative care for minors. A minor can be placed under the protection of the Guardianship Council for a period of six weeks if it is in physical danger and urgent intervention is required.

## Problem areas

232. Generally speaking, there is too little alternative care provision in the Netherlands Antilles, especially for children with a disability. The islands, notably Saba and Sint Eustatius, are also struggling with a shortage of trained social workers. Finally, the island governments are not setting aside enough funding for alternative care.

233. Under the new Civil Code of the Netherlands Antilles (NBWNA), board members of NGOs can be held personally liable if the organisation fails to adequately protect a child. This has led to a shortage of people who are willing to sit on the boards of NGOs that protect the rights and welfare of the child.

234. Finally, all the islands are facing problems relating to drug use. A growing number of children are experimenting with addictive substances and alcohol and there is a clear increase in the number of families with problems linked to drug dependency.

## Statistics

235. The tables below show the number of children on Bonaire and Curaçao who have been separated from their parents and placed in residential care homes or with foster families:

### *Curaçao*

#### **Number of children placed in alternative care (Family Supervision Agency)**

Year	Children removed from home environment	Total on Agency register
2003	232	378
2004	218	339
2005	210	334

#### **Number of children placed in alternative care/under a supervision order by the Guardianship Council**

	2003	2004	2005	2006					
				Jan-May	June	July	Aug.	Sept.	Oct.
Placement/ Supervision	70	33	22	17	2	4	3	17	30

### *Bonaire*

236. In August 2006, approximately 150 children on Bonaire had been placed under a supervision order. Eighteen were living in foster homes. With regard to the number of children being returned to their parents, the only change to report is that the Family Supervision Agency on Bonaire has altered its policy to ensure that more children can return home. At present, this does not happen often enough.

**Family Supervision Agency client categories and numbers, 2002-2005**

Client category	2002	2003	2004	2005
Number of clients subject to a supervision order	74	72*	96	110
Clients under voluntary supervision	12	06	06	05
Clients receiving after-care	05	24**		11
Total	91	91	102	126

\* 72 children under active supervision (31 of whom are new cases, including seven transfers).

\*\* 24 clients receiving after-care (13 of whom were referred in 2002 and 11 in 2003).

**Accommodation of children placed under supervision  
by Family Supervision Agency in 2003**

At home with parents	34
In a residential care home on Bonaire	10
In foster families	17
Not on Bonaire	15
Total	76

237. The table below provides figures relating to alternative care in the Netherlands Antilles.

**Number of registered applications for alternative care,  
classified according to organisation, 2004-2005**

Organisation	Type of organisation	Number in July-December 2004	Number in January-June 2005
Guardianship Council	GO	-	-
Stichting Reclassering (probation work)	NGO	-	10
Perspektiva i Sosten Integral (PSI)	NGO	51	10
Servisio pa Asuntunan di Ensenansa (SAE)	NGO	-	1
Sentro pa Guia Edukashonal	NGO	85	129
Kinderoorden Brakkeput	NGO	-	2
Huize St Jozef	NGO	11	8
Huize Rose Pelletier	NGO	2	3
Gouvernements Opvoeding Gesticht (GOG)	GO	4	6
Family Supervision Agency	NGO	2	18
Fundashon pa Maneho di Adikshon (FMA)	NGO	36	15
Famia Plania	NGO	31	67
Casa Manita	NGO		4
Other organisations		29	28
Total		251	301

### Classification of children in alternative care, by gender

238. The number of applications relating to girls in the Netherlands Antilles has continued to decline.

#### Applications for alternative care, December 2004-2005

Gender	Number in July-December 2004	Number in January-June 2005
Boys	159	171
Girls	87	130
Not known	5	0
Total	251	301

### Country of origin and nationality

239. The majority of children in alternative care (86%) are from Curaçao. A further 5% are from the Netherlands, 3% from the Dominican Republic and 2% from Jamaica. The remainder come from Bonaire, Sint Maarten and Venezuela. Almost all the clients - 97% - are Dutch nationals.

### Age of children in alternative care

240. Most new applicants are in the 15 to 17 age category, followed in second place by 3 to 5 year-olds and in third place by 9 to 11 year-olds.

#### New clients according to age category and gender, July-Dec. 2004-Jan.-June 2005

Age category	Total: July-December 2004	Boys: January-June 2005	Girls: January-June 2005	Total: January-June 2005
0-2	13	7	2	9
3-5	28	40	14	54
6-8	42	24	12	36
9-11	52	37	14	51
12-14	22	30	15	45
15-17	46	16	48	64
18-20	43	16	25	41
Not known	5			
Total	251	170	130	300

### Residential care homes and foster families in the Netherlands Antilles

#### *Curaçao*

241. On Curaçao, children and young people can be placed in the following institutions:

- Kinderorden Brakkeput, for boys aged 4 to 14. Residents can if necessary remain there until the age of 18

- Huize St Jozef, for girls aged 4 to 14 and boys aged 4 to 12
- Huize Rose Pelletier, for girls aged 14 to 18
- Casa Manita, for girls aged 4 to 12 and boys aged 4 to 10
- Kinderdorp Hebron, for male and female residents aged below 30
- Gouvernements Opvoedingsgesticht (GOG), for boys aged 12-21 who have been in contact with the criminal justice authorities and boys aged 12-18 who have been placed under a supervision order
- Kara pa Solo (GOG), for girls aged 12-21 who have been in contact with the criminal justice authorities and girls aged 12-18 who have been placed under a supervision order
- Kas Broeder Pius, for girls aged 14-18 who are pregnant or who have a baby

#### *Bonaire*

242. There is only one residential care home on Bonaire, the Sister Maria Höppner Foundation, which provides residential care for up to 12 boys with problems or behavioural difficulties. A condition of admission is that their problems should not be too complex and that they should not have come into contact with the criminal justice authorities and/or have drug-related problems.

#### *Sint Maarten*

243. On St Maarten, children can be placed in the “Crystal Home” or the “I Can Foundation”. There are also one or two foster families on the island which can provide alternative residential care.

### **Article 21**

244. There were no changes in the laws relating to adoption.

#### *Curaçao*

245. The number of adoption cases involving the Guardianship Council in 2003-2006 was as follows:

Year	2003	2004	2005	2006					
				Jan-May	June	July	Aug.	Sept.	Oct.
Number of adoptions	23	20	16	10	-	3	-	5	2

*Bonaire*

246. On Bonaire, four applications for adoption were submitted in 2005.

*Sint Maarten*

247. The number of adoption cases involving the Guardianship Council in 2002-2004 was as follows:

Year	2002	2003	2004
Number of adoptions	9	11	-

**Article 27**

**Recommendations**

248. In response to the initial report, the Committee recommends a more active and effective policy to recover child maintenance from parents who refuse to pay.

249. Despite the statutory provisions that have been laid down, many fathers in the Netherlands Antilles do not fulfil their obligation to pay child maintenance. As a result, mothers often have to meet these costs alone. Although non-payment can lead to the confiscation of property or even imprisonment, such interventions fail to have the desired effect. The use of collection agencies also achieves little result.

**VI. HEALTH CARE AND WELFARE**

250. Within this cluster, the Committee's recommendations concerned disabled children, health care, the health of teenagers and HIV/AIDS.

**General**

**Childcare services (article 18, paragraph 3)**

251. Please refer to V (The family and alternative care), where the right to childcare services has already been discussed.

252. The islands of the Netherlands Antilles do not have a budget for training crèche staff. Any training for people working in this sector is privately funded. There is also short-term investment in training pre-school professionals under the Collaborative Education Programme as part of Foundation Based Education.

253. The lack of a comprehensive national grant policy is adversely affecting the quality of childcare services, which means that children from poor families are not eligible for high-quality care. With the exception of Sint Maarten, the minimum requirements for childcare centres are not enforced in the islands. As a result, good-quality childcare is not guaranteed.

#### *Bonaire*

254. A number of draft national ordinances have been submitted to the island executive but because of lack of funding to implement them, no decision has been taken. Grants are awarded from the island budgets to crèches and other parent and childcare institutions. In 1999, such institutions were 100% funded from external sources but nowadays, most of their funding is provided by the government.

#### **Size of childcare centres**

255. The 15 centres on the island are either small or medium-sized. A single centre caters for more than 50 children, six centres cater for between 11 and 20, five centres cater for between 31 and 50 and a single centre caters for fewer than ten.

256. The table below shows the number of children attending day care, ranked by age and type of care.

	Morning	Afternoon	Whole day	Total
Number of children aged < 1½ years	12	1	34	47
Number of children aged 1½-3 years	35	2	98	135
Number of children aged 3-4 years	36	3	99	138
Number of children aged > 4 years	2	101	8	111
Total	85	107	239	431

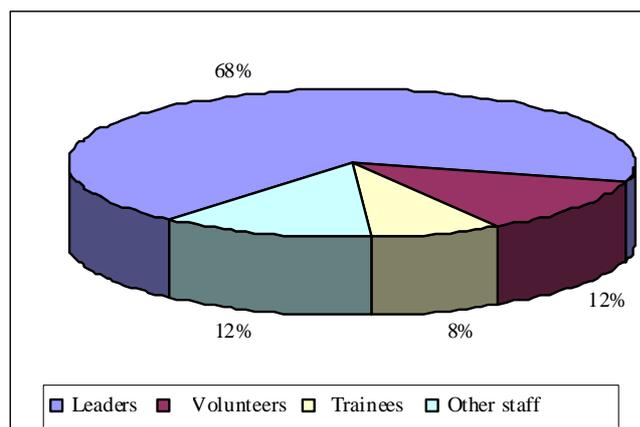
257. The average ratio of crèche leaders to children per group is 1:12 for all 15 centres. On average, each leader is in charge of 12 children. Four daycare centres have volunteer leaders besides the available employed staff. Most of the volunteers are related to the children.

258. All the island childcare centres provide hot meals. At six centres, there is a fixed menu while at nine centres the menu varies from day to day. At three centres, the menus are put together with the advice of a dietician. At all the centres, children always have access to safe drinking water.

259. Sanitary facilities vary. Eight centres have a separate washroom for the children, and at all the others, the children use the sanitary facilities of the house to which the centre is attached. Of the 15 centres, nine have separate toilets for children. In total, there are 28 toilets for 431 children, but the number per centre is variable.

260. In total, 53 people are employed in childcare on the island: 31 paid crèche leaders, 14 managers and eight other staff. The other staff comprise three housekeepers, one administrator, one handyman and one messenger. One crèche has two members of staff from Stanislaus ATV (an organisation for disabled care) who help with basic housekeeping. In addition, there are eight volunteers and five trainees. Of all the childcare centres, 73.3% do not keep any staff records.

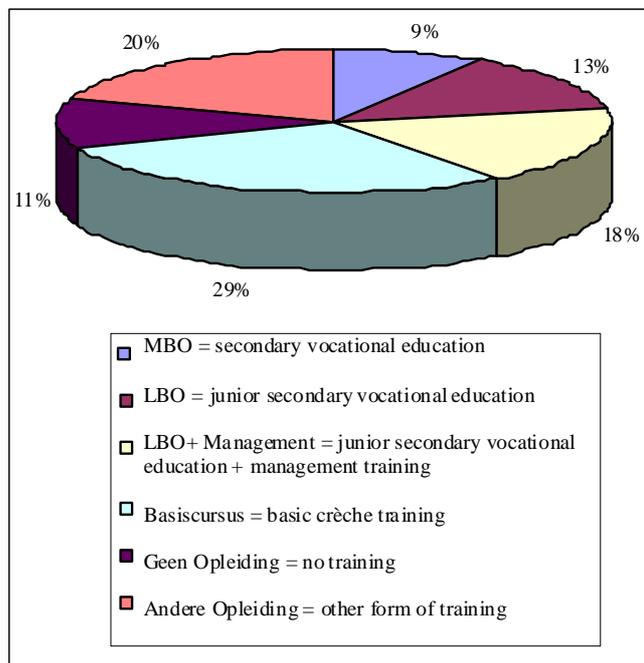
### Day care staff composition and qualifications



261. The staff in the childcare centres on Bonaire come from a variety of educational backgrounds:

- 4 people (8.9%) have completed secondary vocational education
- 6 people (13.3%) have completed junior secondary vocational education
- 8 people (17.7%) have completed junior secondary vocational education and management training
- 3 people (28.9%) have had basic training as a crèche leader
- 5 people (11.1%) have had no training at all
- 9 people (20%) have had some other form of training

262. The training of childcare staff is part of organisational and educational policy in the Netherlands Antilles.



Qualified staff are distributed over the following age groups:

Under 18 years: 5 people

19-25 years: 7 people

26-35 years: 8 people

36-45 years: 20 people

### Article 23

#### Recommendations

263. The Committee's recommendations can be summarised as follows: Research should be undertaken into the causes of disability and into ways of preventing it in the future. The integration of disabled children should also be encouraged within mainstream education and the community at large. Teachers will require appropriate in-service training and refresher courses, and public facilities and areas must be adapted in order to offer better access to disabled children.

264. The Netherlands Antilles should also mount an awareness campaign highlighting the rights and special needs of physically and mentally disabled children. Children should also be actively involved in the campaign. Finally, the parents of disabled children and others involved in caring for them should receive better support.

*Curaçao*

265. Within the field of research into the causes of disability and into ways of preventing it in the future, the Epidemiology and Research Unit of the Medical and Public Health Service of Curaçao and FEDEMAKRO,<sup>25</sup> a federation for people living with disability and chronic illness, have conducted joint research into functional disability. Efforts are also made to identify potential disability as early as possible during routine appointments at the child health clinics.

*Sint Maarten*

266. No official research has been done on Sint Maarten into the causes or prevention of disability. However, in 2002 the Sister Basilia Centre launched an early detection programme in maternity clinics: clients identified as being in the early stages of disability are rapidly referred to a specialist.

267. In April 2006, the Sister Basilia Centre on Sint Maarten set up an emergency committee to pinpoint disability-related problems within mainstream education. Information is gathered from questionnaires completed by schools.

*Bonaire*

268. On Bonaire, the FKPD (Fundashon Kuido di Personanan Desabilitá) incorporates international norms in the new homes built for its clients.<sup>26</sup>

**Awareness-raising campaigns and public relations activities**

269. Throughout the Netherlands Antilles, governmental organisations and NGOs conduct publicity campaigns to raise awareness of the rights and special needs of disabled children and children with mental health difficulties. These public relations activities usually take place in response to a specific request. NGOs involved in promoting the interests of disabled children publicise their work through radio and television programmes and newspaper articles. On Curaçao the Totolika<sup>27</sup> parents' association and Help for the Hearing-impaired (HAG) publish a regular magazine showcasing their activities.

270. On Bonaire, the FKPD runs a monthly radio programme about disability issues and the Sister Basilia Centre on Sint Maarten attempts to raise awareness of the mentally disabled by publishing newspaper articles about the target group.

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<sup>25</sup> Federashon pa desabilidatnan i malesanan króniko.

<sup>26</sup> A local care organisation for disabled people.

<sup>27</sup> Federation for people living with disability and chronic illness.

## Support for parents and care professionals

### *Curaçao*

271. Parents and others caring for disabled children receive support from Totolika. The organisation makes home visits, organises discussion groups, theme days and family days.

### *Bonaire*

272. On Bonaire the FKPD recently appointed a social worker with special responsibility for support to parents and others caring for the disabled. The Health Care and Hygiene Service provides psychological advice to carers of disabled children. It also holds workshops and courses for professionals working with disabled children, sometimes jointly with the FKPD.

### *Sint Maarten*

273. At the Sister Basilia Centre on Sint Maarten, support to parents and carers of the disabled is provided by a social worker and a psychologist.

## Statistics<sup>28</sup>

### Disabled population of the Netherlands Antilles in 2001, by type of disability, age and gender

Type of disability	Age group								
	0-14			15-29			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Blindness	1	-	1	-	-	-	1	-	1
Visual impairment	134	155	289	172	282	454	306	437	743
Deafness	4	3	7	2	10	12	6	13	19
Hearing impairment	49	27	76	50	42	92	99	69	168
Physical	142	101	243	147	118	265	289	219	508
Mental	138	52	190	75	59	134	213	111	324
Other	111	61	172	117	73	190	228	134	362
Multiple	75	62	137	122	95	217	197	157	354
Total	654	461	1 115	685	679	1 364	1 339	1 140	2 479

<sup>28</sup> Data from the 2001 Census conducted by the Central Bureau of Statistics; [www.cbs.an/census 2001](http://www.cbs.an/census 2001).

**Disabled population of Curaçao in 2001,  
by type of disability, age and gender**

Type of disability	Age group								
	0-14			15-29			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Blindness	-	-	-	-	-	-	-	-	-
Visual impairment	83	101	184	129	192	321	212	293	505
Deafness	2	3	5	2	6	8	4	9	13
Hearing impairment	37	21	58	39	35	74	76	56	132
Physical	112	70	182	121	91	212	233	161	194
Mental	129	46	175	72	52	124	201	98	299
Other	78	44	122	91	56	147	169	100	269
Multiple	67	55	122	101	87	188	168	142	300
Total	508	340	848	555	519	1 047	1 063	859	1 922

**Disabled population of Bonaire in 2001,  
by type of disability, age and gender**

Type of disability	Age group								
	0-14			15-29			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Blindness	-	-	-	-	-	-	-	-	-
Visual impairment	13	10	23	8	26	34	21	36	57
Deafness	-	-	-	-	2	2	-	2	2
Hearing impairment	7	2	9	-	2	2	7	4	11
Physical	6	8	14	6	8	14	12	16	28
Mental	3	4	7	2	3	5	5	7	12
Other	9	4	13	8	8	16	17	12	29
Multiple	4	1	5	7	3	10	11	4	15
Total	42	29	71	31	52	83	73	81	154

**Disabled population of Sint Maarten in 2001,  
by type of disability, age and gender**

Type of disability	Age group								
	0-14			15-29			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Blindness	1	-	1	-	-	-	1	-	1
Visual impairment	32	40	72	33	54	87	55	94	149
Deafness	2	-	2	-	2	2	2	2	4
Hearing impairment	4	3	7	6	4	10	10	7	17
Physical	21	22	43	20	16	36	41	38	79
Mental	5	2	7	1	4	5	6	6	12
Other	22	12	34	15	8	23	37	20	57
Multiple	4	6	10	13	4	17	17	10	27
Total	91	85	176	88	92	180	169	177	346

**Disabled population of Sint Eustatius in 2001,  
by type of disability, age and gender**

Type of disability	Age group								
	0-14			15-29			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Blindness	-	-	-	-	-	-	-	-	-
Visual impairment	6	2	8	-	6	6	6	8	14
Deafness	-	-	-	-	-	-	-	-	-
Hearing impairment	-	1	1	4	-	4	4	1	5
Physical	2	1	3	-	2	2	2	3	5
Mental	1	-	1	-	-	-	1	-	-
Other	1	1	2	3	1	4	4	2	6
Multiple	-	-	-	-	1	1	-	1	1
Total	10	5	15	7	10	17	17	15	32

**Disabled population of Saba in 2001, by  
type of disability, age and gender**

Type of disability	Age group								
	0-14			15-29			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Blindness	-	-	-	-	-	-	-	-	-
Visual impairment	-	2	2	2	4	6	2	6	8
Deafness	-	-	-	-	-	-	-	-	-
Hearing impairment	1	-	1	1	1	2	2	1	3
Physical	1	-	1	-	1	1	1	1	2
Mental	-	-	-	-	-	-	-	-	-
Other	1	-	1	-	-	-	1	-	1
Multiple	-	-	-	1	-	1	1	-	1
<b>Total</b>	<b>3</b>	<b>2</b>	<b>5</b>	<b>4</b>	<b>6</b>	<b>10</b>	<b>7</b>	<b>8</b>	<b>15</b>

**Article 24**

**Recommendations**

274. The Committee made the following recommendations with regard to health and health care:

- Greater efforts should be made to make the necessary professional financial resources available
- Even effort should be made to improve public knowledge about basic health care measures, and provide for affordable and easily available contraception
- Efforts to reach unregistered and makeshift schools should be continued and strengthened
- The Netherlands Antilles should set up a national campaign to inform parents and care professionals of the advantages of breastfeeding, and continue and expand to all the islands its initiative to introduce “baby-friendly” hospitals
- Comprehensive and consistent programmes to treat the victims of hurricanes should be developed
- National legislation on healthcare among should be introduced so as to ensure that disparities in the quality of health care the islands are rectified
- Social security and health insurance should be broadened so as to include all children living in the Netherlands Antilles

275. With regard to the health of adolescents the Committee recommended that the Netherlands Antilles:

- Implement the reproductive health programme proposed in 1996 following a nationwide workshop on the subject
- Develop youth-sensitive and confidential counselling care and rehabilitation facilities that are accessible without parental consent and to those not enrolled in the regular education system
- Ensure that adolescents (both girls and boys) have access to education (including at school) about a variety of health issues, and to child-sensitive and confidential counselling

### **National policy on health care**

276. Although the draft National Ordinance on Youth Care still has to be approved, the Health Service on Sint Maarten has already incorporated its objectives in the island policy. The Individual Healthcare Professions Regulations are also in preparation on Sint Maarten as is already implemented in the Netherlands.

277. In the Netherlands, the Individual Healthcare Professions Act (BIG)<sup>29</sup> stipulates who is authorised to practise as a professional within individual health care. Only people who have the required educational qualifications may be enrolled in the BIG register and only practitioners enrolled in the register may use the corresponding professional titles, which are protected by law. Under-qualified practitioners may be listed as such or may be struck off the register. Thus, anyone who wishes to do so can check whether a health practitioner is properly qualified or not.

278. No special measures have been taken in the health care sector on Sint Eustatius. However, the island's health care system is currently being reorganised, with an emphasis on recruiting professional staff and acquiring appropriate funding to achieve the envisaged aims.

279. On Curaçao, preventive youth health care for everyone up to 19 years of age is provided and coordinated by the youth healthcare unit of the Medical and Public Health Service (GGD) and is fully funded by the island authorities. The term "preventive health care" covers the safeguarding and promotion of health and the prevention of illness. The youth healthcare unit provides medical and developmental testing and screening for all of the age groups referred to in the vaccination schedules below. Advice, information and practical guidance are also given, especially for children, parents and professional carers.

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<sup>29</sup> Wet op de Beroepen in de Individuele Gezondheidszorg.

## Vaccination

280. In accordance with the standards of the Pan American Health Organisation (PAHO) and the World Health Organisation (WHO), the government aims to immunise at least 95% of the target group in the Netherlands Antilles.

### *Curaçao*

281. The immunisation programme on Curaçao unit for children and adolescents is the responsibility of the youth Healthcare and of the Medical and Public Health Service (GGD) of Curaçao. The program is fully funded by the island government. The budget available for 2003 and 2004 was ANG 152,018 (excluding staffing costs). The immunisation programme reaches the population primarily through the 20 child health clinics on the island, through schools and the afternoon clinic sessions at the youth healthcare unit. Vaccinations are also given by paediatricians and general practitioners, two company clinics and the infirmary of the Royal Netherlands Navy. The vaccination schedule is drawn up and periodically reviewed by the unit. The vaccination manual was last revised in 2004.

282. On Curaçao the basic vaccination programme for children of up to 10 years of age comprises the vaccination of babies at child health clinics and of four to ten-year-olds at the school they attend. The basic programme through clinics and schools is free of charge for all children. Other organisations charge a fee. All vaccinating agencies must keep a record of all babies and children vaccinated and forward this information on a monthly or quarterly basis to the Central Vaccination Records Office run by the Medical and Public Health Service.

### Vaccination schedule for children by age\*

Vaccine**	Age by the end of 1999	Age by the end of 2000
DPT1 + HIB1 + TONV1	3 months	2 months
DPT2 + HIB2 + TONV2	4½ months	3½ months
DPT3 + HIB3 + TONV3	6 months	5 months
DPT4 + HIB4 + TONV4	From 12 months	From 11 months
MMR1	14 months	14 months
DP5 + TONV5	4 years	4 years
DP6 + TONV6 + MMR2	10 years	10 years

\* *Statistical Overview of Health Care on Curaçao 1996-2000*, page 125.

\*\* DPT = Diphtheria, Pertussis (whooping cough), Tetanus.  
Hib = Haemophilus Influenzae type b.  
MMR = Measles, Mumps, Rubella.

**Vaccination coverage infants (percentage) 1996-2000\***

Year of birth/ Vaccine**	1996	1997	1998	1999	2000	2001	2002
DPT-3	95.2	93.5	95.9	94.5	96.9	98.1	97.9
Polio-3	95.0	93.5	95.3	94.3	96.9	98.1	97.9
Hib-3	94.6	93.5	94.9	94.3	96.2	97.8	97.6
DPT-4	84.2	86.9	92.8	93.0	93.8	94.7	94.7
Polio-4	83.9	86.9	92.7	92.9	93.7	94.8	94.6
Hib-4	83.9	86.9	91.9	92.9	92.6	94.0	94.0
MMR-1	81.9	84.9	94.3	93.9	94.2	94.4	95.2

\* *Statistical Overview of Health Care on Curaçao 1996-2000*, page 125.

\*\* DPT = Diphtheria, Pertussis (whooping cough), Tetanus.  
Hib = Haemophilus Influenzae type b.  
MMR = Measles, Mumps, Rubella.

**Vaccination coverage schoolchildren (percentage) 1998-2004\***

	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
Kindergarten (age 4-5)	76.8	81.0	87.9	88.9	89.9	93.5
10-year-olds	79.1	80.1	84.4	85.7	88.0	90.1

\* *Statistical Overview of Health Care on Curaçao 1996-2000*, page 125.

*Bonaire*

283. On Bonaire, 95% of one-year-olds are vaccinated against tuberculosis, diphtheria, whooping cough, tetanus, polio and measles.

*Sint Maarten*

284. The most recent data from Sint Maarten are not yet available. However, children at risk from tuberculosis can obtain the BCG<sup>30</sup> immunisation free of charge. The Youth Care Service contacted the management of non-registered schools on Sint Maarten and the parents of children who attend them. Both registered and non-registered schools are now involved in the school programmes organised by the Youth Health Service, including the programme for vaccination.

*Sint Eustatius*

285. Since 1996, 98% of one-year-olds on Sint Eustatius have been vaccinated against diphtheria, whooping cough, meningitis, hepatitis B, polio and measles.

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<sup>30</sup> Bacille Calmette-Guérin.

### **Breastfeeding and “baby-friendly” hospitals**

286. Most information about the advantages of breastfeeding is provided by the child health clinics on all the islands, and on Curaçao also by the Mother’s Milk Foundation (*Stichting Lechi di Mama*), an organisation that promotes breastfeeding.

287. Children’s rooms in Antillean hospitals have been made safer and more child-friendly, but apart from this, there have been no new moves to develop the initiative towards “baby-friendly” facilities in hospitals.

### **Relief and care for hurricane victims**

288. An island ordinance on disaster response was introduced on Sint Maarten in 2000. The disaster management plan comprises several Emergency Support Functions (ESF-groups), run by ESF groups. Each ESF group is responsible for developing its own disaster management plan. ESF 6 is responsible for medical relief and public health and also has a “hurricane plan”.

### **Social security and health insurance**

289. For information on social security and health insurance, please see the remarks made under I (General measures of implementation) regarding the reservations to Article 26 made by the State Party.

290. In the Netherlands Antilles, the basic principle underlying social security legislation is that children have a derived right through their parents. Under the National Ordinance on Health Insurance, the family of an insured employee or former employee are entitled to certain allowances for medical treatment and nursing. If the employee in question loses the right to the allowance, so do their children.

291. Widows and orphans are entitled to benefit following the death of their spouse or parents. However, if the deceased did not qualify for this type of insurance, their surviving child(ren) will not be entitled to an orphan’s pension.

#### *Sint Maarten*

292. The insurance system currently operating in the Netherlands Antilles is ill-suited to the population situation on Sint Maarten. As a result, many people - particularly illegal immigrants - are uninsured and many are not eligible to be insured, either. The situation is expected to improve with the introduction of a general health insurance system. However, there is no immediate prospect of this happening. Currently, anyone who is legally registered as an island resident is entitled to all social and medical care, whereas non-registered people, depending on their situation, may be able to apply for help individually.

## **Adolescent health**

### **Implementation of the reproductive health programme**

293. In 1996, a national workshop was held on reproductive health. Its results have been implemented to the extent that sex education and courses on reproductive health are now taught on the islands. The youth healthcare unit on Curaçao runs annual courses on reproductive health and sexuality for adolescents and professionals who work in adolescent health care.

294. A start has been made on sex education in Sint Eustatius schools. This is done by a team consisting of a doctor, a nurse, a social worker and representatives of the various churches on the island. Talks and information about reproductive health are also given on the radio. However, the Medical and Public Health Service has ascertained that there has been no activity in this field over the past six months.

### **Contraception: information and availability**

295. Various healthcare information campaigns have been run or are currently running in the Netherlands Antilles. In 2005, the “Parenting 2000” project was launched. It is designed to give parents support in bringing up their children and in 2007, it was integrated in the preventive healthcare programme for young people.

296. Contraceptives are not only available in drugstores and pharmacies in the Netherlands Antilles but can also be obtained from various organisations. On Curaçao, the Planned Parenthood Foundation (Stichting Famia Plania) provides contraceptives at low cost. Contraception is available on Bonaire at affordable prices from the information and prevention unit of the Health Care and Hygiene Service. On Sint Maarten, condoms can be obtained free from the Health Service, which also provides contraceptive information. The Family Life Foundation (previously known as the Family Planning Foundation) has also been reactivated. On Sint Eustatius the Medical and Public Health Service works in close cooperation with the Planned Parenthood Foundation on Curaçao, and both provide contraceptives at a lower price than local pharmacies. Because the island communities are small, a small consultation room has been set up to safeguard young people’s privacy and thus make the facilities more accessible.

### **Health information and education**

297. Information about issues that concern adolescents is disseminated via schools, the media, flyers and informative meetings for the general public.

#### *Curaçao*

298. Within the official school system on Curaçao, the Medical and Public Health Service provides resource packs on a range of health issues for general distribution and teaching purposes. The topics include “Hygiene”, “Growing up”, “Sexuality”, “What is a teenager?” and “What’s wrong with this child?”

*Sint Maarten*

299. On Sint Maarten, various modules have been developed in order to maintain uniformity of information about sexual behaviour and nutrition. In addition, two projects have been launched - "Cry for summer" and "Girl Power". "Cry for summer" is an introductory teaching pack for primary schools about HIV/AIDS. "Girl Power" is designed to help girls at secondary school to improve their self-esteem.

*Sint Eustatius*

300. On Sint Eustatius, schools and the public health service work together. In 2004, a school nurse was appointed to provide information about health care at primary schools. An HIV/STD coordinator also works with schools. Information is also disseminated through radio programmes produced by the public health service and the University of Sint Eustatius School of Medicine.

**HIV/AIDS<sup>31</sup>**

301. With regard to HIV/AIDS, the Committee recommended that the Netherlands Antilles integrate respect for the rights of the child into the development and implementation of its policies and strategies for children infected with and affected by HIV/AIDS.

*Sint Maarten*

302. At island level, Sint Maarten has incorporated non-discrimination in its HIV/AIDS strategic policy plan. The HIV/AIDS work plan for 2006 explicitly adopted "reviewing existing legal framework and preparing recommendations for possible revision to prevent all aspects of discrimination relative to HIV/AIDS" as a specific strategic activity. This activity will primarily be implemented by the Legal Affairs Department of the Sint Maarten island executive.

303. Mention should also be made of the 2002 survey of 14 to 18-year-olds at all the secondary schools on the island carried out in line with Sint Maarten's strategic HIV/AIDS policy plan. This study was part of the "Communities that Care" programme<sup>32</sup> and was a collaborative venture with universities in the United States. Its aim was to identify risks reported by young people themselves, particularly those inherent in certain attitudes, types of behaviour and responses to cultural norms. The study focused on sexuality and the use of tobacco, drugs and alcohol. The results of this study will greatly influence the formulation of strategies for preventing HIV/AIDS among young people on Sint Maarten.

304. Youth Consultation is another activity in which young people played a significant role. This activity for secondary school children took place on Sint Maarten in 2006. Besides a video conference with peers from South Africa and Kenya, a group of 80 students considered ways in which young people could help to prevent the spread of HIV/AIDS and how schools could facilitate this. A resolution based on the results of Youth Consultation was submitted to the

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<sup>31</sup> See also III General principles.

<sup>32</sup> See also I (General measures of implementation) and V (The family and alternative care).

island authorities. However, large numbers of young people are currently leaving Sint Maarten to train or study abroad, making it difficult for the island authorities to set up a consistent HIV/AIDS prevention programme.

305. Between 2002 and 2005, a Junior AIDS Committee was actively involved in peer education on Sint Maarten, organising various youth activities based around HIV/AIDS. However, the committee is no longer active.

306. In 2005 and 2006 the Sint Maarten AIDS Foundation received a grant for its activities from the Sint Maarten authorities. The foundation also carried out fund-raising activities of its own. However, the proceeds were entirely spent on paying the salary of the HIV/AIDS programme coordinator, who was seconded on a fulltime basis to the island's Health Service. The scheme came into existence after the grant from the AIDS Foundation in the Netherlands (to cover the coordinator's salary) was stopped at the end of 2004. Currently, the AIDS Foundation has no funds at its disposal for carrying out its activities.

307. Further afield, the AIDS Foundation is currently applying for a grant of about \$19,000 from the Caribbean Epidemiology Centre (CAREC). This would fund the purchase of hardware and software for a patient monitoring programme in collaboration with the French side of the island, and the cost of training counsellors and printing information flyers.

308. For statistics on HIV infection among children, please see III (General principles).

### **Care and rehabilitation facilities**

309. There are no special facilities in the Netherlands Antilles where young people can be counselled, cared for and rehabilitated without parental consent being required.

#### *Sint Maarten*

310. Within the healthcare sector, no structured measures have been taken to provide counselling, care and rehabilitation for young people. However, various associations such as the Ark Foundation and Sint Maarten AIDS Foundation do provide care of this type. Young people outside mainstream education can make use of their facilities.

#### *Curaçao*

311. The youth healthcare unit may refer teenagers to the appropriate organisations and also provides counselling. Mediation is also offered, but if it is not successful after 2 or 3 sessions, the problem is referred to a more specialised organisation. These services are available and accessible to all children and young people residing on the island.

### **Article 27 (Standard of living)**

312. Reference is made to the initial report.

### Pregnancy-related deaths

313. The percentage of pregnant women in the Netherlands Antilles who have access to, and make use of, prenatal and postnatal health care varies per island and depends on a range of factors.

#### *Curaçao*

314. No hard figures are available from Curaçao. The number and quality of health checks vary considerably, and depend on the insurance status of the pregnant woman. Uninsured women (including women without a residence permit) receive occasional health checks. Most births are attended by a family doctor, midwife/obstetrician or gynaecologist. The quality and extent of postnatal care also depends on the mother's insurance status.

315. On Curaçao, almost 95% of all births take place in a hospital or maternity clinic. The remainder includes a very small group of women (between 50 and 100 per year) who deliberately opt for a home delivery, and a group of uninsured women.

### Maternal Death Rate (MDR) and live births per year, Curaçao 1986-2000

	Year														
	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Number of deaths*	1	1	2	1	1	3	3	1	1	0	4	4	1	1	1
MDR	32	33	71	35	32	102	105	33	32	0	130	150	43	46	47
Births	3 096	2 986	2 818	2 860	3 128	2 949	2 860	3 010	3 104	2 938	3 073	2 663	2 345	2 167	2 110

\* Includes death as a consequence of: (1) complications during the pregnancy, (2) abortion, (3) complications at delivery and (4) complications in the postpartum period.

#### *Bonaire*

316. On Bonaire, 85% of all children are born in hospital.

#### *Sint Maarten*

317. Practically all children on Sint Maarten are born in hospital. A small percentage are born in maternity clinics.

#### *Sint Eustatius*

318. On Sint Eustatius, all children are born in hospital.

### Number of breastfeeding mothers

319. All maternity clinics promote breastfeeding as the best option for mother and baby. However, they also accept that some mothers choose not to breastfeed or are unable to because of circumstances. Most working women choose not to breastfeed because of circumstances.

*Curaçao*

320. To determine the extent and duration of breastfeeding on Curaçao, a record was kept in 2003 of the 626 registered newborns and the type of nutrition they were given. The records show that:

- 25% were exclusively breastfed
- 54% received a combination of breast and bottle
- 21% were exclusively bottle-fed

*Bonaire*

321. On Bonaire, 40% of mothers exclusively breastfed their babies, for between 7 and 8 months.

*Sint Eustatius*

322. On Sint Eustatius 60% of mothers exclusively breastfed their babies, for between 3 months and one year.

**Teenage pregnancy<sup>33</sup>**

323. The tables below show the incidence of pregnancy, sexually transmitted diseases, mental health difficulties and drugs and alcohol abuse in the Netherlands Antilles.

**Female population aged 15 to 20 years with number of children  
living in the Netherlands Antilles in 2001**

Number of children	Age 15-20 years					Total
	Curaçao	Bonaire	Sint Maarten	Sint Eustatius	Saba	
0	4 678	298	898	61	25	5 960
1	302	36	68	6	2	414
2	37	1	15	-	-	53
3	5	-	2	-	-	7
4	1	-	-	-	-	1
5	9	-	3	-	-	12
Total	5 032	335	986	67	27	6 447

<sup>33</sup> Data from the 2001 Census conducted by the Central Bureau of Statistics; [www.cbs.an/census 2001](http://www.cbs.an/census 2001).

*Curaçao*

324. Because abortions are not recorded on Curaçao, the number of teenage pregnancies is difficult to estimate. Although it is illegal to perform abortions, the practice exists. It is usually performed by a general practitioner and no official record is kept.

325. Since 1995, the Age-Specific Fertility Rate (ASFR) of women aged between 15 and 19 years has declined. The ASFR indicates the number of live births per 1000 women within the given age group. In the year 2000, the ASFR declined to the level of the late 1980s. The table below shows the ASFR of women aged 15 to 19 years between 1995 and 2000 on Curaçao.

**Age-specific fertility rate of women aged 15-19, Curaçao 1995-2000<sup>34</sup>**

Year	ASFR
1995	56.0
1996	54.4
1997	46.9
1998	51.2
1999	41.1
2000	46.6

**Number of births by maternal age, Curaçao 2003**

Age of mother	Number of births
14	2
15	2
16	11
17	19
18	33

*Source:* Youth healthcare unit, Medical and Public Health Service of Curaçao.

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<sup>34</sup> Statistical Overview of Health Care on Curaçao: 1996-2000, Epidemiology and Research Unit, Medical and Public Health Service of Curaçao, 2004, page 240.

**Number of teenage mothers with amount of children on Bonaire, 2002-2006<sup>35</sup>**

Age of mother	Year					Total
	2002	2003	2004	2005	2006	
14			1			1
15	1					1
16		2	5	4	1	12
17	2	2		3		7
Total	3	4	6	7	1	21

**Number of teenage pregnancies on Sint Eustatius, 2000-2006**

	2000	2001	2002	2003	2004	2005	2006
Total number	4	3	5	2	1	1	1

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

**Article 28**

**Recommendations**

326. The Committee recommended that the Netherlands Antilles:

- Seek to implement participatory measures to encourage children, especially boys, remain in school during the period of compulsory education
- Take effective measures to address the high illiteracy rates
- Extend resources to support children in secondary education
- Effectively implement Foundation Based Education and monitor its progress
- Ensure that teaching staff are sufficiently trained in the new education system
- Ensure that pregnant girls of compulsory school age stay at school and are provided with adequate support systems to continue their education after the child is born
- Increase the number capacity and quality of special education institutions

**Current situation**

327. Further to the draft National Ordinance on Foundation Based Education, the National Ordinance on Secondary Vocational Education and Training, the National Ordinance on Compulsory Education and the National Ordinance on the Promotion of Employment for Young

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<sup>35</sup> Population Civil and Electoral Register, Population Affairs, Service, Bonaire.

Jobseekers, regulations have been introduced on compulsory education and training for teenagers and young adults, taking into account ILO Recommendation 136 concerning special youth employment and training schemes for development purposes, (Dutch Treaty Series, 1971, 117).

### **Participation of young people in education (including secondary education)**

328. Measures should be taken to encourage teenagers, especially boys, not to drop out of school before they reach the official school-leaving age. The following measures are all related to the implemented education reforms and should help to curb drop-out in schools.

329. As already mentioned in I (General measures of implementation), the school-leaving age has been raised and efforts will be increased to enforce the National Ordinance on Compulsory Education. Together with the other amendments mentioned under I, this is designed to reduce the percentage of dropouts, especially boys.

330. Educational reforms have taken account of pupils' social and cultural backgrounds. The new approach is geared to the individual development of the child. Pupils' mother tongue is now the medium of instruction and secondary schools offer a variety of learning pathways in order to better cater for the varied learning capabilities of pupils. The new Preparatory Secondary Vocational Education (VSBO) has three programmes:

- PBL: basic practical programme
- PKL: practical middle management programme
- TKL: theoretical middle management programme

331. Secondary vocational education (formerly MBO) has been reformed and is now known as SBO. There are four qualification levels and each one leads to a certificate. The HAVO/VWO system based on "profiles" - is a combined programme or combination of subjects which prepares students for related courses of further training in higher education.

### **Combating illiteracy among young people**

332. Several private organisations are working to stamp out illiteracy in the Netherlands Antilles. One of them is the Mangusá Foundation on Curaçao, which is involved with education, training and literacy programmes for children and young adults living in very adverse socio-economic circumstances. The same kind of work is done by the Foundation for the Promotion of Literacy in the Antilles (Stichting Promoshon di Alfabetisashon na Antias) and the Pro Alfa Foundation (Stichting Pro Alfa), which targets people aged 15 to 40.

333. On Bonaire, the same kind of work is done by the Foundation for Tomorrow (FORMA, *Fundashon Formashon pa Mañan*). Besides these private initiatives, extending the period of compulsory education indirectly helps combat illiteracy.

### **Incentives to enter secondary school**

334. One of the objectives of the educational reforms is to get more children into secondary education, particularly the more academic courses (HAVO and VWO). Pupils who complete primary school are automatically eligible to attend secondary school. The selection procedure which takes place early on in secondary education is not rigorous.

### **The implementation and evaluation of Foundation Based Education**

335. Foundation Based Education was introduced in the Netherlands Antilles in 2002, centralising responsibility for policy and legislation. The reforms were first discussed with stakeholders - the islands' education representatives, school boards, trade unions and parents' representatives.

336. Implementation of the new system is in the hands of the island authorities and is being monitored by the Agency for Process Management of Education Reform (BPO). Although implementation is a matter for the central and local governments and stakeholders rather than children, its core values are good education and the interests of the child.

337. The educational reforms have encouraged schools to work together, have combined subjects and introduced new subjects to the curriculum. Teachers have been given in-service training to enable them to teach more effectively within the new system. In addition, a teacher training institute for Foundation Based Education (LOFO) was launched at the Faculty of Arts of the University of the Netherlands Antilles (UNA) in August 2006. The LOFO opened on Sint Maarten in January 2007 and also takes students from Bonaire.

### **Pregnant pupils of compulsory school age**

338. Measures have been taken on the islands to ensure that girls who become pregnant before the official school-leaving age can stay at school as long as possible and that after the birth, they receive the support they need in order to continue their education.

#### *Curaçao*

339. Because clear agreements have been made with school boards and/or schools, it is now very unusual for girls who become pregnant before the school-leaving age to be expelled from school. These young mothers can also resume classes after the baby is born.

#### *Bonaire*

340. On Bonaire, pregnant pupils are allowed to continue with regular education as long as the environment is safe for the mother and unborn child. After the birth, the young mothers go back to school.

#### *Saba*

341. On Saba, young mothers can return to school to complete their studies.

### **Measures to allow non-registered children to go to school**

342. Under the National Ordinance on Compulsory Education, all children of school age in the Netherlands Antilles have the right to attend school - including children who are not registered. The law stipulates that no child may be barred from attending school. Every child has the right to be educated. However, on Sint Maarten, a child who is due to attend nursery or primary school and whose name is not listed in the population register may not be enrolled or admitted by a recognised school.

### **Measures for children with special needs**

343. In the Netherlands Antilles, education is also available to children with a range of disabilities, such as blindness and deafness, visual and hearing impairments, mental disability, motor impairment, severe learning difficulties and severe behavioural difficulties. There is also an increasing focus on children with Attention Deficit Hyperactivity Disorder (ADHA) and educational provisions for autistic children are currently being considered.

344. On Curaçao, the Foundation for Educational Support to Disabled Children (SOKH) provides support to autistic children. On Bonaire, schools cater for special needs pupils by adapting the facilities or providing special learning resources. On Saba, severely disabled children - of whom there are very few - do not go to school.

345. One of the aims of the new education system is to reduce the number of children being referred to special education and to have their special needs met within mainstream education wherever possible. The policy plan "Growing in Care" (Groeien in Zorg) contains a detailed plan catering for individual needs and the integration of children with learning and/or behavioural difficulties is fully developed in the new system.

### **Children who are temporarily or permanently unable to go to school**

346. The responsibility for tackling this problem lies with the island authorities. The main reasons why some children in the Netherlands Antilles are temporarily or permanently unable or not allowed to go to school include poverty (in which lack of food and clothing is a major factor), temporary migration, illness, disability, detention, pregnancy and aggressive behaviour.

#### *Curaçao*

347. There are educational facilities for children of school age who are hospitalised on Curaçao. Experience has shown that it is not feasible to guarantee the right to education for adolescents detained in prison on the island by providing them with any form of schooling.

348. Certain pupils on Curaçao require intensive one-to-one teaching because of their aggressive and deviant behaviour. There are currently insufficient facilities for this sub-group, so some of them periodically receive no education. The introduction of the Youth Training Programme may offer a solution to the problem.

349. Curaçao also has a school for the deaf and hearing-impaired, and efforts are in progress to improve educational provision for the blind and sight-impaired, with the assistance of the Pro-Sight Foundation (Stichting Pro Bista).

## Article 29

350. The current reforms of the Antillean education system are primarily aimed at improving and optimising the quality of education. It should be borne in mind, however, that improvements in some areas of education are not immediately measurable and will only be apparent in a few years' time.

### Funding

351. A major part of the Netherlands Antilles budget is allocated to the Education, Sport and Culture Department (DirOSC). However, the budget structure is not drawn up in such a way as to reveal precisely how much is spent on safeguarding children's right to education. The amount allocated covers such items as books and periodical subscriptions, stationery, housekeeping items and educational projects. Although there are no direct grants to schools, central government is responsible for ensuring the conditions under which good-quality education can be provided.

#### Total education expenditure by DirOSC, 2002-2005

Year	Amount
2002	ANG 14 376 123.83
2003	ANG 13 783 542.39
2004	ANG 11 434 175.33
2004	ANG 10 474 952.11
2005	ANG 4 300 819.03 (as per Oct. 2005)

352. Within the framework of educational reform, a five-year collaborative programme was set up in 2002 between the Netherlands and the Netherlands Antilles. Expenditure is shared as follows: 85% from the Netherlands, 10% from the Netherlands Antilles and 5% from the island territories jointly. The amount contributed by each island varies according to the number and type of the projects.

### Problem areas

353. In implementing the right of the child to education, including vocational education and educational support, the following problems have been encountered:

- Insufficient placement prospects and traineeships for certain types of vocational training
- Although teachers and other staff involved in Foundation Based Education have been given in-service training, they need further practical coaching
- The main obstacle to guaranteeing the quality of education is a shortage of funds and staff, which means there is no solid basis for the reforms
- There is a lack of inspection of quality on the islands, which could undermine educational uniformity

**Statistics**

**Illiteracy amongst non-school population,\* per island**

	1992 Census <sup>36</sup>			2001 Census <sup>37</sup>		
	Total non-school population (age 15 and over)	Illiterates		Total non-school population (age 15 and over)	Illiterates	
Islands		Absolute	%		Absolute	%
Bonaire	6 843	363	5.3	7 050	234	3.3
Curaçao	96 387	3 759	3.9	86 501	3 116	3.6
Sint Maarten	22 631	1 938	8.6	19 451	825	4.2
Sint Eustatius	1 180	53	4.5	1 481	33	2.2
Saba	826	62	7.5	836	28	3.3
Total: Netherlands Antilles	127 867	6 174	4.8	115 319	4 236	3.7

**Illiteracy amongst male population, per island**

Men	1992 Census			2001 Census		
	Total non-school population (age 15 and over)	Illiterates		Total non-school population (age 15 and over)	Illiterates	
Islands		Absolute	%		Absolute	%
Bonaire	3 412	204	6.0	3 449	125	3.6
Curaçao	44 3277	1 588	3.6	38 755	1 186	3.1
Sint Maarten	11,189	974	8.7	9 406	412	4.4
Sint Eustatius	603	29	4.8	736	24	3.3
Saba	407	37	9.1	401	20	5.0
Total: Netherlands Antilles	59 938	2 832	4.7	52 747	1 767	3.3

<sup>36</sup> Data from the 1992 Census conducted by the Central Bureau of Statistics.

<sup>37</sup> Data from the 2001 Census conducted by the Central Bureau of Statistics; [www.cbs.an/census 2001](http://www.cbs.an/census 2001).

### Illiteracy amongst female population, per island

Women	1992 Census			2001 Census		
	Total non-school population (age 15 and over)	Illiterates		Total non-school population (age 15 and over)	Illiterates	
Islands		Absolute	%		Absolute	%
Bonaire	3 431	159	4.6	3 601	109	3.0
Curaçao	52 060	2 170	4.2	47 746	1 930	4.0
Sint Maarten	11 442	964	8.4	10 045	413	4.1
Sint Eustatius	577	24	4.2	745	9	1.2
Saba	419	25	6.0	435	8	1.8
Total: Netherlands Antilles	67 929	3 342	4.9	62 572	2 469	3.9

\* Excluding people of unknown educational background.

### Number of pupils registered and type of schooling attended (primary, secondary and vocational education)

*Curaçao*

#### Number of pupils by type of education and gender

	FO	BO	BSO	VSO	VSBO	HAVO/VWO	SBO	Total
Boys	3 670	6 318	880	368	3 805	1 116	1 110	17 267
Girls	3 273	6 318	349	308	3 933	1 778	1 806	17 765
Total	6 943	12 636	1 229	372	7 930	2 894	2 916	34 920

*Source:* Educational Affairs, Curaçao.

354. In addition to data from the population register, Curaçao's Educational Affairs Service also keeps a schools register, containing data obtained directly from the islands' schools.

355. Information about aliens can be obtained from both the population register and schools register. Anyone not born in the Netherlands Antilles is considered as an alien. The schools register also lists aliens who are not listed in the population register. About 7.3% of Curaçao schoolchildren are foreign, and a considerable number of them are not listed in the population register. Furthermore, according to the register, 50% of the foreign children of compulsory school age come from the Netherlands.

### Non-attendance at school

356. The Educational Service Affairs distinguishes between two main types of non-attendance:

- Absolute: a young person of compulsory school age is not registered at any school

- Relative: a young person of compulsory school age is registered at a school, but does not attend lessons

357. Relative non-attendance can be classified according to duration or motive. There are two types classified by duration:

- Short-term: the pupil has been absent for up to 5 days per month
- Long-term: the pupil has been absent for 5 or more days per month

358. There are two types of non-attendance classified by motive:

- Holidays in term time: unauthorised absence for holiday or trips abroad
- Truancy: unauthorised absence characterised by errant behaviour, usually the result of problems at home, and unrelated to extra holidays

**Long-term non-attendance: percentages by school type**

School type	Percentage
FO	25.81
BO	34.78
BSO	7.56
VSBO-PKL&PBL	15.67
VSBO-TKL	2.87
HAVO/VWO	0.53
VSO	11.52
SBO-REST	1.24

**Non-attendance percentages, classified by motive and duration**

Type of non-attendance	Motive	Percentage
Truancy	Socio-economic deprivation	5
	In trouble with the police	1
	Transport problems	3
	Illness	36
	Playing truant	2
	Family problems	0.5
	Behavioural problems	0.5
	Parents don't care	8
	Unknown	38
Holidays in termtime	Trip abroad	6

*Source:* Educational Affairs Service, Curaçao.

*Sint Eustatius*

359. The island has a clear requirement for educational support, particularly parenting support for people with children of secondary school age. In the past, children had to leave the island and continue their schooling elsewhere. However, that changed a few years ago, when Sint Eustatius got its own secondary school. So dropouts are a relatively new phenomenon on the island, and since 2004, the authorities have run a holiday jobs project in anticipation of the group of young people needing work. An annual amount of ANG 35,000 is budgeted for this.

**Article 31**

**Recommendations**

360. With reference to the observance of article 31 by the Netherlands Antilles, the Committee made the following recommendations:

- Organise after-school cultural activities
- Provide public sports facilities that are easily accessible and free of charge

**The current situation**

361. The Foundation Based Education (FO) curriculum includes culture and the arts and a range of activities is organised. Subsequent years of secondary education have a similar focus.

362. In the Netherlands Antilles, culture is the responsibility of the island authorities. Support from the state authorities takes the form of policy plans which the various island authorities elaborate on and implement.

**After-school activities**

*Curaçao*

363. In December 2003 the Foundation for Development and Progress (Fundashon Desaroyo i Progreso) was set up on Curaçao. Its aim is to offer school pupils social, cultural, spiritual, emotional and physical activities which meet the development needs of young people and their community. This enables them to function better in society, resist negative influences, do better at school and develop their talents.

364. In keeping with these aims, the foundation signed a contract with the island authorities in 2004. The authorities provide a grant of ANG 3.5 million per year, which enables the foundation to provide 2044 children in Foundation Based Education with after-school activities every day. At the moment there are 23 FO schools affiliated to the foundation - about 50% of the island's schools.

365. Shortage of funding is a serious problem for the foundation. The government grant is mainly used to cover staffing costs, and the parental contribution is only ANG 6 per child per month. In consequence, there is no funding available to provide bus transport or lunches for the children or in-service staff training or to extend the project to other schools. So, in order to offer

a high-quality service in the circumstances, the foundation regularly issues appeals to businesses, private individuals and voluntary service clubs, and project brochures are submitted every year to a range of financial institutions with requests for financial sponsorship.

#### *Bonaire*

366. On Bonaire, the Emergency Programme for Youth funds after-school care at the Kolegio Papa Cornes, where about 40% of pupils have followed the after-school activities programme over the past two years.

367. In addition, the youth centre Young Bonaire (run by the Young Bonaire Youth Work Foundation) has provided after-school activities for teenagers since 1998. It also gives support to parents in raising their children. The foundation's aim is to help young Bonaireans in their journey towards adulthood, irrespective of race, religion, nationality, skin colour or social and financial status.

368. Young Bonaire's target group consists of secondary school pupils aged from 12 to 20. Young people are free to join and become members, and can opt to visit the centre on three or agreed days or five days in the week. Each young person is given an individual activities timetable for ten weeks. When it is finished, they can switch to different activities.

369. Young Bonaire can cater for up to 180 teenagers. From January to June 2006 inclusive, the association had 148 members (65 girls and 83 boys).

370. The foundation has a care contract with the island authorities of Bonaire and receives an annual grant of ANG 170,000. The Young Bonaire Youth Centre has problems recruiting and keeping volunteers. It also has insufficient referral facilities and individual counselling for problem cases.

#### *Sint Maarten*

371. On Sint Maarten, the After School Activities programme (ASA), which developed from the Emergency Programme for Youth, is now managed by the No Kidding with Our Kids Foundation. This foundation caters for four to 13-year-olds. Parents can register their children with the foundation whatever school they attend. They usually do this in the area where their children go to school or they themselves work. The programme is run in three locations and caters for 200 children.

372. For a small charge, the Foundation will pick the children up from school, since many parents are unable to do this because of work commitments. The children are then given lunch, and afterwards have an opportunity to do their homework. Later, there is time for other activities and children can receive extra coaching in a range of school subjects.

373. The table below shows the number of children participating in the foundation's activities between 2002 and 2006.

**Participants in ASA activities**

Academic year	Number
2002-2003	242
2003-2004	182
2004-2005	194
2005-2006	273

374. The foundation receives a monthly grant from the island authorities. It is also authorised by the government to use school premises for its activities. The foundation has a shortage of funding, space and staff.

*Sint Eustatius*

375. The island-subsidised Public Library, the Community Centre and pre-school care play a key role in social and cultural activities. For these facilities, the authorities have an annual budget of almost ANG 500,000. However, the present Community Centre is considered to be less than ideal because of its geographical location and limited facilities. Because it has only one large room, it cannot be used by mixed groups or several groups at the same time.

*Saba*

376. As described in I (General measures of implementation), Saba has active youth organisations working with a large number of children and adolescents on the island. Within the framework of the Emergency Programme for Youth, effective and well-organised after-school care known as Child Focus is provided for children from 6 to 12 years and 13 to 18 years. It was first initially extended until the end of 2004 and since 2005, it has been subsidised by the island government.

**Sport**

*Curaçao*

377. The two main umbrella organisations for sport are the SEDREKO Foundation and the NAOC (Netherlands Antillean Olympic Committee). SEDREKO was set up by the island territory of Curaçao to promote sport on the island in the widest sense of the word. Every year, a contract is signed with the island authority stipulating the objectives to be achieved by the foundation. SEDREKO's mission is to promote active and passive participation in sport and recreation, and to professionalize the organisation and implementation of sport and recreational activities on Curaçao. It aims to raise sport and recreation to a professional level, because of the benefits for the physical, psychological and social wellbeing of the local population.

378. The foundation's main aim is to provide high-quality material, educational and financial support for developing physical education, school sports, youth sport, after-school activities and other sports activities. It seeks to do this in a way that is prompt, flexible, professional and responsible.

379. For the budget year 2005, the island authority of Curaçao awarded a grant of ANG 7,741,260 to the SEDREKO Foundation, including grants to various other foundations via SEDREKO.

**Foundations receiving government grants**

Name of foundation	Amount (in ANG)
Fundashon pa Hubentut na Kaminda (Foundation for Youth on the Way)	50 000
Curaçao Sport Federation	105 000
Sportterreinen Brievengat Foundation	574 618
Stichting Rifzwembad	72 500
Revista Deportivo Kòrsou (sports magazine)	6 100

*Source:* SEDREKO annual report 2005.

380. The shortage of free sports facilities for young people and others is an agenda item which the island's Educational Affairs Service will be discussing in its talks with SEDREKO about the contract for 2007.

381. The project for after-school activities on Curaçao (Fundashon Desaroyo i Progreso) offers free sports facilities jointly and in collaboration with SEDREKO and BRESSNA (an association for movement, recreation, sport and games in the Netherlands Antilles, which trains recreational sports coaches).

*Bonaire*

382. On Bonaire, the Bonaire Sport Federation (BSF) acts as an umbrella organisation for the island's sports clubs. INDEBON is a government agency which will soon acquire foundation status and will be responsible for managing the sports activities.

*Sint Eustatius*

383. In addition, there are very basic sports facilities. There is a field for outdoor sports, but it is not in very good condition. The island has no gyms of any kind, not even in schools. A project grant from Reda Sosial (Fund for Social Development and Economic Activities) is currently being used to help build a swimming pool. An application has been submitted for a school gym from the funding available for introducing and implementing Foundation Based Education. However, this involves a lengthy procedure and the schools are seeking an alternative solution for the short term.

384. On Sint Eustatius, there have been plans for many years to set up multifunctional sports facilities. However, the island authorities have no room in their budgets and so far, external funding sources have not been prepared to commit themselves. The management of existing outdoor sports facilities has been outsourced by the government to the Statia Sports Institution,

but no grant has been made available for running or managing it. The island authorities reserve an annual amount of almost ANG 200,000 for facility maintenance, small-scale sports activities and staffing costs. The sports facilities are entirely dependent on external funding for renovation and major maintenance work, and buying sports equipment.

### *Saba*

385. On the sports facilities front, there have been several new developments. Recently, it was decided not to renovate the outdoor sports facilities at The Bottom, since the uneven ground makes it unsuitable for sports activities. In recent years, there have been attempts to finance new flooring from private funding sources on a project basis. However, not only has this proved to be extremely expensive, it would also mean that the facility cannot be used any longer for certain cultural activities. So it was decided to leave the facility in its present state, continue to use it for cultural and festival activities and look elsewhere for a solution to the sports ground problem.

386. Since then, a solution has indeed been found. Via a new foundation (the Menno Ward Foundation), a piece of land has been purchased on which a multipurpose sports facility will be built. The construction will probably be funded by AMFO. Once the building is completed, the facility will be managed by the island's sports associations, of which Saba Sports Institution is the most important. The island authorities will be responsible for employing an instructor and maintaining the sports facilities.

387. Apart from this, there are no public swimming facilities on Saba. For the swimming lessons offered as part of after-school care, occasional use is made of a nearby hotel swimming pool. The island authorities are aware of this and would like to resolve the problem by building a salt water basin in Cole Bay.

## **Funding**

### *Curaçao*

388. In addition to the grants awarded by the Curaçao authorities to various foundations, the island's Culture and Education Service has awarded the following grants to organisations which actively promote culture among young people.

## **VIII. SPECIAL PROTECTION MEASURES**

### **Article 22**

389. As was explained in II (Reservations), the situation is unchanged. As stated in the initial report, the term "refugee" is not as such used in Netherlands Antilles law. There is no asylum law, and asylum applications are very rarely submitted.

### **Children in exploitative situations**

390. The Committee's recommendations focus on economic and sexual exploitation and drug abuse.

## Article 32

### Recommendations

391. The Committee recommends that child labour laws be reviewed and implemented, labour inspectorates be strengthened and penalties be imposed in cases of violations.

392. The Committee also recommends that special attention be paid to enforcing laws prohibiting children under the age of 18 from work that might be hazardous to their health, safety or development, in line with the ILO Minimum Age Convention, 1973 (No. 138).

393. The fact that insufficient information and inadequate data on child labour and economic exploitation within the Netherlands Antilles is available is another cause for concern.

### Current situation

394. The Labour Affairs Department is working to improve the situation, developing, implementing and evaluating labour policy. Industrial relations, national, international and regional social affairs and employment opportunities are all part of this. Terms of employment, employment conditions and relations with the International Labour Organisation are all key themes. The Labour Affairs Department's branch offices on Curaçao, Bonaire and Sint Maarten investigate complaints made by employers and employees, and mediate in individual conflicts. They also deal with applications for free legal representation from people on low incomes, and investigate and assess requests to dismiss employees. In recent years few preventive company inspections have taken place, due to a shortage of personnel and resources.

### Legislation

395. Like the 1952 Labour Regulations, the new Labour Regulations (2000) prohibit child labour. Article 15 of the Labour Regulations specifies that this ban applies to children aged 14 and under. The new legislation was passed in response to ILO Convention 182 on the Worst Forms of Child Labour. The Labour Regulations 2000 do however state that children may be employed in physically and mentally undemanding work typically carried out by children, e.g. delivering newspapers and packing groceries at the supermarket. They may not, however, do this kind of work during school hours, or before 07.00 or after 19.00.

396. The Youth Employment Decree also prohibits young people from performing work that may damage or endanger their health. The Youth Employment Decree does not apply to work carried out by persons aged 16 years or older, or by those in vocational training when supervised by an adult.

397. As mentioned in the initial report, in certain cases it is possible to obtain an exemption from the rules laid down in the Youth Employment Decree. Should an employer wish to do so, he must apply in writing to the Director of the Labour Affairs Department. No such exemptions have yet been requested.

398. In the near future the Antillean government intends to declare applicable several major ILO Conventions which do not yet apply in the Antilles, specifically ILO Convention 182 on the Worst Forms of Child Labour, and 138, the ILO Minimum Age Convention.

399. The Labour Affairs Department has drawn up an employment plan which contains information on:

- What the labour market wants
- Up-to-date, comparable initiatives designed to get young people working
- Data from the implementing organisations on the outcome of the programme

400. The scheme aims to provide jobs for young people who want to work, and details a mediation and supervision process designed to help match the right people with the right work and ensure that they stay in employment. The scheme's organisers hold information sessions and are now working closely with employers' organisations to match the first group of participants with appropriate jobs.

### **Labour inspectorate**

401. The Labour Affairs Department's labour inspectorate is responsible for monitoring compliance with the Labour Regulations and the Youth Employment Decree. The inspectorate is also responsible for assessing compliance with the National Ordinance on the Minimum Wage and the Holiday Regulations (1949). If any contravention is identified the employer in question will be summonsed and may be penalised in accordance with statutory sanctions. The Labour Regulations 2000 provide for more modern penalties, distinguishing between serious and minor offences. The maximum penalty for serious offences is a prison term of 4 years and/or a fine of ANG 100,000. The maximum penalty for minor offences is one year's imprisonment and/or a fine of ANG 25,000.

402. On top of the periodic inspections carried out by the labour inspectorate, each island's employment service also monitors work permits and safety at work. As of 20 March 2006 the Labour Affairs Department has employed two temporary staff members to carry out other tasks, including monitoring employment conditions. Talks are currently underway with the employment services with a view to joining forces and increasing the frequency of inspections.

### **Sanctions**

403. Between 2002 and 2006 few inspections were carried out, due to a lack of manpower and the diversion of resources to discussions on delegating the Labour Affairs Department's executive tasks to island level. The inspections did not identify any irregularities, nor were there any complaints regarding child labour.

### **The Netherlands Antilles and international labour conventions**

404. Between 2002 and 2006 there were no changes to the ILO Conventions applicable to the Netherlands Antilles, namely:

- ILO Minimum Age (Agriculture) Convention, 1921 (no. 10)
- ILO Forced Labour Convention, 1930 (no. 29)

- ILO Minimum Age (Non-Industrial Employment) Convention (no.33)
- ILO Night Work of Young Persons (Industry) Convention (revised), 1948 (no. 90)

405. In the near future the government intends to declare several ILO Conventions applicable to the Netherlands Antilles. In addition to Conventions 182 and 138 referred to above, it also intends to declare the ILO Equal Remuneration Convention (no.100), the ILO Discrimination (Employment and Occupation) Convention (no. 111) and the ILO Right to Organise and Collective Bargaining Convention (no. 98) applicable.

### **Problem areas**

406. Problems identified by the Labour Affairs Department:

1. The absence of efforts to raise awareness of children's right to protection from economic exploitation in schools and the media.
2. The failure of the Netherlands Antilles government to define the poverty line. Such a definition would be a vital tool in any effective poverty-reduction campaign, and could help break the vicious circle of economic exploitation (including child labour).

### **Statistics**

407. The 2001 census, conducted by the Central Bureau of Statistics and the 2005 manpower survey only cover people of working age, i.e. 15 years and over. Only a handful of 15 and 16 year-olds work. In 2001, 81 15 year-olds, and 132 16 year-olds, were employed. Of these 69% were male.

#### **Young people in employment, according to age and gender<sup>38</sup>**

Netherlands Antilles	Male	Female	Total
15 year-olds	55	26	81
16 year-olds	91	41	132
Total	146	67	213

### **Article 33**

408. Given the high incidence of drug abuse and drug trafficking involving children, the absence of data on this problem, the lack of a comprehensive national plan of action to combat

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<sup>38</sup> Data from the 2001 Census conducted by the Central Bureau of Statistics; [www.cbs.an/census 2001](http://www.cbs.an/census 2001).

drug abuse and trafficking amongst children, and the limited psychological, social and medical programmes and services available for the treatment of drug-addicted children, the Committee recommends that the Netherlands Antilles:

- Review and update national legislation on drugs
- Take all appropriate administrative, social and educational measures to protect children from the illicit use of narcotic drugs and to prevent the use of children in the illicit trafficking of such substances
- Support rehabilitative, reintegration and recovery programmes dealing with child victims of drug and substance abuse

### **Current situation**

409. In the period in question no new national legislation on combating narcotic drugs was introduced. Measures to protect children from drug abuse were, however, taken, as well as steps to help drug addicts and alcoholics. This was largely on the initiative of private organisations, some of which are funded by the Antillean authorities.

### **Fundashon pa Maneho di Adikshon (FMA)**

410. The Curaçao-based NGO FMA is working to coordinate island-based aid for drug addicts. The foundation originated through a project set up in 2000 to help young addicts, funded by the Netherlands Antilles Emergency Programme for Youth. After the project ended in 2004 the FMA set up the Young Persons' Unit (Unidat pa Hoben) for young drug or alcohol abusers, gamblers and smokers up to the age of 24. Young people can simply come in off the street, or can be referred by their parents, school or any other institution with which they are in contact. They are offered 16 weeks of non-residential supervision, followed by three to six months of aftercare. The unit also educates the population as a whole through the media. Talks are held at schools (and other locations, on request) and information campaigns are organised. Members of the public can also put their questions to the helpdesk in person, and the unit has its own information centre where leaflets are available.

411. The FMA helps schools and businesses to train employees to draw up their own drugs policy. It receives a grant from the Curaçao island territory authorities.

### **The Safe and Healthy Schools Action Plan**

412. Curaçao has also launched a Safe and Healthy Schools Action Plan. The programme has introduced a school rule specifying that if drugs are found on a pupil the school board and his or her parents will be informed. The incident will then be reported to the police and the law of criminal procedure will apply. The programme is also geared to keeping areas in which schools are located drug free. Ideally, this would be achieved through regular police checks.

### **The DARE (Drugs Abuse Resistance Education) programme**

413. The DARE programme was first introduced within the Curaçao Police Force in 2004. Police officers are trained and authorised to lead awareness programmes in schools. Using specially devised material, uniformed officers teach pre-school children and primary and secondary pupils about the dangers of drugs, cigarettes and alcohol, helping them to say no to these substances and to understand the importance of a positive attitude.

### **Turning Point Foundation Sint Maarten**

414. The Turning Point Foundation on Sint Maarten believes that children have as much right to protection from drug abuse as their parents. For the past nine years it has been working on setting up a residential home for young people. It also carries out prevention activities for schools, church communities and any other interested parties, promoting its work through the media. The police's Drug Action Team also gives talks on the subject, on request.

415. Funding proposals for the shelter for under-18s and transitional centres for young adults aged 18 and over were submitted to the Dutch government in 2003, through the Ministry of Foreign Affairs' government projects scheme. The requests were refused. They then applied to the AMFO for funding, but were turned down again because the projects were deemed to be too extensive. The foundation is constantly short of funds, which affects its ability to achieve targets.

416. The Turning Point Foundation has helped draw up policy on drugs and violence for the Milton Peters College, and is prepared to help other schools to do the same. It also helps partner schools with testing and treatment programmes.

417. The Sint Maarten island territory contributes ANG 273,000 to the care of drug addicts every year.

### **Sint Maarten's Alternative to Incarceration (ATI)**

418. The ATI community project, which hopes to change existing social policy, will run for two years. The aim of the project is to develop and implement a comprehensive system of rehabilitation and recovery for non-violent offenders. It hopes to reform the entire legal system, reduce the numbers of repeat offenders and encourage responsible social reintegration by looking at alternatives to expensive (and often ineffective) custodial sentences.

419. Current measures would indeed appear not to be helping the situation, at a time when Sint Maarten residents are becoming increasingly aware of the negative influence crime and illicit drugs have on society as a whole. The project wants to address these concerns and develop the infrastructure required to guarantee safety in the community.

420. The ATI project is coordinated by the Advocates for Human Potential Inc (AHP) advisory bureau, which is based in the United States. The project also involves an island-based multi-disciplinary working group, consisting of government representatives, NGOs, concerned residents and members of the business community.

421. In 2006 the government of Sint Maarten contributed ANG 800,000 to the ATI initiative. In 2005 the initiative received ANG 205,000 from the AMFO to train personnel and others in the Windward Islands.

### **Problem areas**

422. Most problems are the result of insufficient funding and a lack of expertise. No help is available for children whose parents are addicts, and there are no special provisions in place for children whose parents are in prison for drug-smuggling.

423. Given that patients tend to change address regularly and are therefore difficult to trace, it is almost impossible to offer aftercare for longer than 3 to 6 months. Many young people leave the island altogether, and can no longer be offered care.

### **Statistics**

#### *Curaçao*

424. The following two tables show how many under-18s approached the FMA for help, and what their problems were, in the period up to April 2002.

#### **Breakdown of addicts aged 17 and under reporting to the FMA, according to prime addiction (up to April 2002)**

Prime addiction	Total	Male	Female
Freebase cocaine	1.6	1.9	
Cocaine	3.2	1.0	15.8
Marijuana/Hashish	69.4	72.4	52.6
Alcohol	0.8	1.0	
Gambling			
Amphetamines/Medicinal drugs	0.8	1.0	
Tobacco	1.6	1.9	
Unknown/N/A	22.6	21.0	31.6
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

*Source:* Statistical Overview of Healthcare on Curaçao: 1996-2000.

#### *Sint Maarten*

425. The following data relates to Sint Maarten and is taken from a survey of 14 to 18 year-olds conducted in 2002 as part of the Communities that Care programme.

**Substance abuse by gender, 14-18 years**

Substance	Male	Female
<b>Tobacco</b>		
Percentage that had ever tried smoking	58% <sup>a</sup>	51%
Percentage that had regularly smoked during the last month (= at least 1 cigarette a day)	7% <sup>a</sup>	7%
Age when first smoked	12 <sup>b</sup>	13
Number of days smoked in the last month	9.6 <sup>b</sup>	6.6
Number of cigarettes smoked per day in the last month	4.3 <sup>b</sup>	2.5
7% of students had smoked on a daily basis for a sustained period of at least one month		
20% of students had tried to quit smoking		
<b>Alcohol<sup>c</sup></b>		
Percentage that had ever tried alcohol	78% <sup>a</sup>	73%
Age when first consumed alcohol	11.6 <sup>b</sup>	11.9
Total number of days on which alcohol had been consumed	26 <sup>b</sup>	20
Percentage who had consumed alcohol in the previous month	45% <sup>a</sup>	38%
Number of days on which alcohol had been consumed in the previous month	5.8 <sup>b</sup>	4.0
Percentage who had participated in binge-drinking in the previous month <sup>d</sup>	20% <sup>a</sup>	10%
Number of days on which subject had participated in binge-drinking in the previous month	5.2 <sup>b</sup>	2.5
75% of the students believed that alcohol was harmful to their health		
20% actively planned to drink alcohol		
33% had been drunk		
15% planned to get drunk every once in a while		
<b>Drugs</b>		
Percentage that had ever tried drugs	38% <sup>a</sup>	20%
Age when first tried drugs	12.9 (1.3) <sup>b</sup>	13.6 (1.1)
Total number of times had taken drugs	35 (1.9) <sup>b</sup>	21 (1.6)
Percentage who had taken drugs in the past month	20% <sup>a</sup>	9%
Number of times had taken drugs in past 30 days	8.4 (1.5) <sup>b</sup>	5.5 (1.2)
79% believed that drug use was harmful to their health		
8% actively planned to get high on drugs		
9% actively planned to use drugs when alone		

<sup>a</sup> Percentages based on all students.

<sup>b</sup> Means responses based on frequencies AND on students who admitted use but gave no further details.

<sup>c</sup> Definition of alcohol consumption: more than just a few sips.

<sup>d</sup> Binge-drinking = 5 or more drinks in a row.

### **Article 34**

426. In terms of sexual exploitation and abuse, the Committee recommended that appropriate policies and programmes for prevention and for the reintegration and recovery of child victims be implemented. It also recommended that legislation be extended to ensure protection of boys and girls from sexual exploitation up to the age of 18 (instead of 16), and that studies be undertaken with a view to assessing the scope of sexual exploitation of children.

#### **Current situation**

427. The International Organization for Migration (IOM) has recently set up training programmes and workshops throughout the Netherlands Antilles to provide direct assistance for victims of child trafficking and exploitation. A working group is also being set up.

#### **Problem areas**

428. There are too few public-awareness campaigns in the Netherlands Antilles, and no effective systematic research into the extent of sexual exploitation of children. The Youth Development Department is however trying to map the problem, through the youth-monitoring programme.

429. One complicating factor is that children resident on the smaller islands are aware that they are likely to be placed with foster families on other islands within the Netherlands Antilles if they report sexual abuse. Fear of removal is therefore often the reason that abuse goes unreported.

### **Articles 37 and 40**

#### **Recommendations**

430. In relation to the juvenile justice system the Committee expresses its concerns regarding the reservations entered. In relation to article 37c these reservations are that:

- Criminal law provisions that apply in principle to adults should also apply to minors who have reached the age of 16
- It may not always be possible to hold imprisoned minors separately from adults

431. In relation to article 40, the reservations were that, in the case of minor offences, children need not be heard in the presence of a legal representative. Secondly, in such cases there would not always be scope for review of the facts and circumstances of the offence.

432. The Committee expresses its concerns not only regarding these reservations, but also about the fact that minors under 16 years of age are held together with adults in detention facilities, that there are insufficient facilities for children in conflict with the law and that there is no complaints mechanism directly accessible to children whose rights have been violated.

### **Current situation**

433. Nowadays the Public Prosecution Service determines whether or not certain provisions apply to juveniles. The Criminal Code Reform Committee has drawn up a draft juvenile criminal law bill. In the new Criminal Code provisions for minors will be laid down in a separate title. It will be based on Dutch juvenile criminal law, adapted for the Netherlands Antilles. Under the new legislation there will be more options for tackling and penalising criminal acts committed by minors.

434. Legal representation is available to minors being tried for serious offences. If required, the costs will be covered by the government of the Netherlands Antilles. Minors can also apply for legal representation when they are being tried for minor offences, but rarely do so.

435. Juvenile criminal law sets the minimum age of criminal liability at 12, and the maximum age of criminal liability at 18. In certain cases exceptions can be made. Minors of 16 or 17 years of age can be tried as adults if the gravity of their crime, or their character, warrants it (a number of cumulative conditions need to be met). Equally, it is also possible to try young people aged 20 and under juvenile criminal law (in this case, conditions are alternative). Under the new juvenile criminal law it will not be possible to impose a life sentence on minors.

436. In order to avoid detaining under-18s in the same facilities as adults, the policy is to avoid detention of minors where possible. Depending on the crime in question, and the offender's character, alternative sanctions will be employed. In cases in which this is not an option, all islands in the Netherlands Antilles have detention facilities where minors may be held.

### *Curaçao*

437. The Bon Futuro prison on Curaçao can hold 565 inmates. Every effort is made to provide separate detention facilities for minors aged 16 or 17 who have been sentenced under adult criminal law. However, there are no designated facilities for those aged 18 and under. A number of plans have been drawn up, but have not been implemented due to lack of funding.

438. In the past, when no alternative was available young criminals were either housed in adult facilities in Bon Futuro or in the GOG, an open institution for young people in trouble with the law. As detainees frequently escaped, the decision was taken to instead house young prisoners in the Bon Futuro Forensic Observation and Guidance Unit (FOBA). The FOBA houses psychologically disturbed adults and prisoners under psychological observation. The authorities recognise that it is undesirable to detain young people in facilities not specifically designed for them.

439. However, this is only a temporary emergency measure. A mentor system operates in the FOBA, and each minor has his own room. A recent judgment has determined that prisoners aged 15 and under may no longer be held at the FOBA. Other facilities must be found, in the Netherlands if necessary.

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