



# Convention on the Rights of the Child

Distr.: General  
4 February 2022

Original: English

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## Committee on the Rights of the Child Eighty-ninth session

### Summary record of the 2566th meeting\*

Held at the Palais Wilson, Geneva, on Tuesday, 1 February 2022, at 3 p.m.

*Chair:* Ms. Otani

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\* No summary records were issued for the 2564th and 2565th meetings.

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*The meeting was called to order at 3 p.m.*

### **Consideration of reports of States parties**

*Combined fifth and sixth periodic reports of the Netherlands (CRC/C/NLD/5-6 and CRC/C/NLD/QPR/5-6)*

1. *At the invitation of the Chair, the delegation of the Netherlands joined the meeting.*
2. **Mr. Samuel** (Netherlands), speaking via video link and introducing the State party's combined fifth and sixth periodic reports (CRC/C/NLD/5-6), said that the Kingdom of the Netherlands, comprising the countries of the Netherlands, Aruba, Curaçao and Sint Maarten, placed great value on the Convention and was committed to children's rights.
3. **Mr. Madi** (Coordinator, Country Task Force) said he wished to learn of any plans that the State party had to withdraw its reservations to articles 26, 37 (c) and 40 of the Convention, which were a source of concern for the Committee, or to ratify the Optional Protocol on a communications procedure. He was curious to find out why there were no child rights impact assessment procedures for laws and policies adopted at either the national or subnational level. It would be helpful to have additional information on the scope of the mandate of the Intercountry Task Force for Children's Rights, on the Memorandum of Understanding on the Rights of the Child signed by the countries and the public bodies in 2018, and on any measures taken to monitor the impact of the decentralization process on the children's services available in the municipalities. He wished to know whether a central mechanism had been established to ensure an adequate and equal distribution of resources. He would be interested in hearing the delegation's response to reports of cuts to the Government's youth care budget and of a high level of indebtedness among municipalities, which were expected to fund youth care services.
4. He wished to know whether any steps were being taken to establish a comprehensive system for the collection of disaggregated data on all areas of the Convention, in all constituent countries, and to share the data with stakeholders. He wished to learn how the State party was disseminating information about the Convention and its Optional Protocols to the general public and to children, and whether such information was shared with children in school. It would be helpful to know whether the public debate in Aruba on the establishment of an Ombudsman and a Children's Ombudsman had taken place; whether the Office of the Children's Ombudsman in Curaçao was functional and could receive and investigate complaints made by children; and whether any steps were being taken in Sint Maarten to establish an independent children's rights mechanism.
5. It would be useful to have an update on the assessments of the international corporate social responsibility policy and the National Action Plan on Business and Human Rights. He would appreciate information on any efforts to reduce the significant disparities in the services available to children in the Netherlands and children in the Caribbean constituent countries. Information on any steps being taken to eliminate discrimination against children belonging to ethnic and religious minorities and other marginalized groups would also be useful.
6. He wished to know whether any efforts were being made to integrate the best interests of the child into laws, policies and administrative and judicial procedures and practices or to incorporate article 12 of the Convention into domestic law. He wished to find out whether requests by children under 12 to be heard in court were granted automatically or only at the discretion of the judge. He would appreciate an update on the review that the State party had been contemplating of the position of minors in court proceedings and the efforts to establish a children's parliament. It would also be useful to have updated statistics on cases of euthanasia involving minors.
7. **Mr. Mezmur** (Country Task Force) said that he wished to learn about any steps being taken to protect children unlawfully resident in the Netherlands from statelessness, to ensure that any decisions to deprive adults of Dutch citizenship did not negatively affect their children and took the children's best interests into account, and to make the possibility of revocation of citizenship inapplicable to children. He wished to find out what was being done to ensure that the births of children born in Curaçao to unlawfully resident parents could be

registered. It would be helpful to have an update on the use of “baby boxes” in the State party and the impact of their use on the right to identity of any newborns left in them. He wished to know how children were protected and their right to privacy was safeguarded in the digital environment in all four constituent countries.

8. It would be helpful to learn whether the Youth Care Action Programme had led to a reduction in out-of-home placements; whether the Creating Youth Care in Family Structures Project had succeeded in its aims and, if so, whether it would be made a permanent programme; and whether any assessments had been made of the role of the Health and Youth Care Inspectorate and the Justice and Security Inspectorate in supervising foster care providers. Updated figures on placements in secure residential youth care would be appreciated. He wished to know whether the results of the Continuity of Foster Care Survey had had an influence on the State party’s policies. He would welcome clarification regarding the quality boost that, according to the State party, had resulted from the monitoring work of the Health and Youth Care Inspectorate, and regarding the statement in the State party’s report that children in foster care in Curaçao were not frequently transferred. He would appreciate an update on the efforts to raise the foster care allowance in Sint Maarten and on any steps being taken to prevent the need for alternative care.

9. **Mr. Gudbrandsson** (Country Task Force) said that he wished to know whether the “Violence does not have a place in the home” programme had led to an improvement and expansion in services for child victims of violence and abuse. He wondered whether any obstacles, particularly those relating to the decentralization of the child protection system, had had to be overcome to implement the programme. He wished to learn why only two facilities were being developed for the implementation of the multidisciplinary “MDA++” approach, which was a cornerstone of the programme. He wished to hear the delegation’s views on how the long waiting lists for specialized services for children, including for victims of abuse and neglect, could be addressed. It would be helpful to find out whether the principles of the *barnahus* model would be integrated into the MDA++ approach. He would appreciate information on any measures to ensure that child victims received appropriate therapy and support; to address online bullying and practices such as child grooming and sexual extortion; to identify and help child perpetrators of sexual violence, in accordance with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; and to stop practices such as isolation in residential facilities. Information on child protection measures in the constituent countries in the Caribbean would also be appreciated. He wished to learn about any planned legislation to address the unnecessary medical and surgical treatment of intersex children, and about any support and counselling services for families of intersex children.

*The meeting was suspended at 3.35 p.m. and resumed at 3.45 p.m.*

10. **Mr. van Ooijen** (Netherlands), speaking via video link, said that the Government of the Netherlands was studying the possibility of recognizing the competence of the Committee to receive and consider individual communications and had requested an advisory opinion from the Council of State on the matter. It would decide whether to ratify the Optional Protocol on a communications procedure on the basis of that opinion.

11. The Netherlands did not intend to withdraw its interpretative declaration in respect of article 14 of the Convention. It was of the view that the article should be interpreted broadly to mean that children should have the freedom to adopt a religion or belief of their choice as soon as they were capable of forming their own opinions and that children’s parents or legal guardians must respect that choice, even if it was not in keeping with their own convictions. The interpretation of the Netherlands was in accordance with article 18 of the International Covenant on Civil and Political Rights.

12. The impact of the 2015 Youth Act had been evaluated in 2018, following which the Youth Care Action Programme had been launched. In the light of that evaluation, measures were being taken to improve the quality, accessibility and visibility of local youth support services. It was important for all municipal authorities to provide timely support, with effective safeguards, regardless of how their youth support systems were organized. A further evaluation of the youth care system and the way in which it was financed was currently under way and would culminate in the development of a youth care reform agenda for the period

2022–2028. The waiting times in the area of youth care could be attributed to a variety of logistical and other causes. Past initiatives aimed at reducing waiting times had been unsuccessful. In order to address the problem, the local, regional and national authorities needed to work together to find long-term structural solutions.

13. The Government had decided to make an additional €1.3 billion available to municipalities for the protection of child rights in 2022, on top of the €300 million that had already been set aside for that purpose. It was committed to ensuring that children in need of specialist care received appropriate support in a timely manner and had set up centres for children with complex and multiple problems. Children could only be placed in a closed youth care facility in certain circumstances, for example if they had a psychiatric disorder that meant they posed a serious threat to themselves or others. The aim of the Government's policy in that area was to reduce the number of admissions to closed facilities and to promote small-scale residential care. As a result of the policy, the number of children in closed facilities had decreased sharply in recent years.

14. The Government and the parliament were required to ensure that all new laws and regulations were in accordance with the human rights principles enshrined in the Constitution and the international treaties ratified by the Netherlands, including the principle of the best interests of the child. An integrated assessment framework, containing tools such as a checklist, had been developed for that purpose. A new guide to reviewing the constitutionality of laws and regulations was being finalized.

15. In order to promote the participation of children in processes that affected them, the Government provided financial support to various youth organizations and held regular consultations with them on a range of issues. At the national level, a youth environmental council had been set up, a youth panel for mental health was being established and a civic service period had been introduced. At the local level, there were many youth organizations working to promote dialogue with young people.

16. The Netherlands was committed to protecting all children from abuse. Thanks to the measures taken under the "Violence does not have a place in the home" programme, there had been a 30 per cent decrease in violence against children. Child victims could report abuse by calling the children's hotline, speaking to an adviser at school or using the "Safe at Home" online chat function.

17. **Ms. Meijer** (Netherlands), speaking via video link, said that the Netherlands had entered a reservation to article 37 of the Convention because it believed that courts should be allowed to apply adult criminal law to offenders aged 16 or 17 when such an approach was justified by the seriousness or the circumstances of the offence or by the offender's personality. When making such a decision, the court took into consideration the fact that the offender might be placed in an institution for adult offenders. In practice, the number of cases in which adult criminal law had been applied to young offenders was very low.

18. With regard to the reservation to article 40 of the Convention, she wished to clarify that all persons convicted of serious offences had the right to appeal against their conviction. The right of appeal was restricted only in cases involving very minor offences, in order to avoid placing a burden on the judicial system and causing unnecessary delays in the processing of cases.

19. Children under 12 could request to be heard in family law proceedings that involved them. In some courts, it was standard procedure to hear children under 12 in particular types of cases, such as child abduction cases. An informational video had been produced with a view to ensuring that children were made aware of their right to be heard.

20. The Government was developing an integrated approach to combating sexual violence that would take into account the factors that contributed to gender-based violence, including the impact of gender roles. In its efforts to tackle violence against girls and young women, it paid particular attention to the issue of sexual exploitation and the development of treatment programmes.

21. The Government was aware that the youth care system needed to be improved and was working with all the relevant stakeholders on both short-term fixes and long-term structural changes. It was hoping to move from a relay approach, where cases were

continually passed from one organization to another, to a more stable, family-oriented approach.

22. **Ms. Bleeker** (Netherlands), speaking via video link, said that various measures were being taken to improve the protection of stateless children. Draft legislation that would make it easier for children born stateless in the Netherlands to acquire Dutch nationality and would establish a statelessness determination procedure had been submitted to the House of Representatives in late 2020. The status of unknown nationality was assigned to children who had a nationality but were unable to provide proof of nationality, as well as to children who were stateless but were unable to show proof of statelessness. Children of unknown nationality who were residing lawfully in the Netherlands had access to all facilities on an equal basis with Dutch children. The withdrawal of a person's Dutch nationality for national security reasons did not affect the nationality of his or her children.

23. **Mr. Oenema** (Netherlands), speaking via video link, said that the Governments of Aruba, Curaçao and Sint Maarten were responsible for implementing the Convention within their jurisdiction, but that the Government of the Netherlands was responsible for the implementation of the Convention in the three municipalities of the Caribbean Netherlands. The establishment of the Intercountry Task Force for Children's Rights in 2014 had helped to improve cooperation and encourage the sharing of best practices between the various parties involved. The Netherlands also engaged in cooperation with the United Nations Children's Fund and made use of the tools and training on results-based management that it provided.

24. **Mr. Tjon** (Netherlands), speaking via video link on behalf of the Government of Aruba, said that it had recently been decided that the 2018 Social Crisis Plan should be extended. The bill on the establishment of an ombudsman and a children's ombudsman would be put to a vote in the parliament of Aruba before the end of March 2022. Several amendments put forward by members of parliament would need to be discussed before the vote could be held.

25. All children in Aruba, including undocumented children, had access to education and basic health care. The Youth Health-Care Section of the Department of Public Health sent health workers to schools to provide medical and social care and to monitor children's development. The Ministry of Justice and Social Affairs had set aside a budget to cover the provision of health care to undocumented persons, including arrangements for such persons to receive treatment abroad where necessary.

26. All officers of the Youth and Vice Police had been trained in how to interview children and child-friendly interview rooms had been set up. The Public Prosecutor's Office was developing new guidelines on the investigation of cases of alleged child abuse. Training on the subject would be provided to all staff of the Ministry of Justice and Social Affairs.

27. **Ms. Larmonie-Cecilia** (Netherlands), speaking via video link on behalf of the Government of Curaçao, said that the position of Children's Ombudsman had been established by law but had not yet been filled. In the meantime, the general Ombudsman was competent to receive and investigate complaints submitted by children.

28. When a case involving a child was brought before a court, the judge decided whether the child should be heard, based on the circumstances of the case. In divorce cases, children were generally heard by the court, in the presence of a representative of the Guardianship Council. Children were placed with a foster family only after extensive checks had been carried out to ensure that the best possible match had been found. The Government received continuous guidance in the area of foster care from several institutions.

29. Various programmes were being implemented to raise awareness of the issue of digital privacy. A bureau for the protection of privacy had recently been established and a digital information security policy had been developed.

30. Nationality and questions of statelessness were matters for which the Kingdom of the Netherlands was responsible. Birth clinics and midwives had an obligation to inform new mothers that children must be registered at birth in order to have a name and a nationality. Undocumented parents could register the birth of their child at a registry office. In such cases, the child received a birth certificate but was not included in the population register.

31. Curaçao was doing its best with the resources available to it to bridge the child protection gap, in collaboration with the other countries and public entities of the Kingdom of the Netherlands. Information on the capacity and resources available for the delivery of services to children in the Caribbean constituent countries would be provided in writing.

32. **Mr. Samuel** (Netherlands), speaking on behalf of the Government of Sint Maarten, said that an examination of the monitoring of children's rights by the Sint Maarten Children's Rights Taskforce had led to a review of the Child Protection Platform, the drafting of documents, including a workplan, and a national decree on the establishment of a national child protection platform. An increase in the allowance for foster parents was under review.

33. **Ms. Skelton** (Country Task Force) asked whether the State party had seen an increase in home schooling linked to the coronavirus disease (COVID-19) pandemic and whether the bill on home schooling provided for monitoring mechanisms. Noting the rejection of an amendment to legislation on citizenship education that would have included an explicit reference to children's rights in the curriculum, she wished to know how the Government would include a human rights-based approach, and particularly a children's rights-based approach, in education goals. She would appreciate information on the solutions planned to address bullying and cyberbullying, particularly on Curaçao; on trends and measures in relation to school dropouts and exclusions across the State party; and on the extent to which children were involved in urban planning and the development of play areas.

34. It would be helpful if the delegation could provide information on the situation of children living in refugee camps in the north of the Syrian Arab Republic whose parents were citizens of the Netherlands, and specifically on how the Government ensured their well-being in the camps and how it addressed their return. She asked why different interviews in the asylum process had been merged and what the impact of that measure had been; there were reports that children had insufficient time to share information about their backgrounds. She also wished to know why child asylum seekers aged 15 and older were assessed as adults and whether the best interests of the child were prioritized in all asylum processes involving those under 18.

35. While the State party's family reunification policy was commendable, there were significant delays in the process and obstacles to reuniting children with extended family members or other caregivers. She would like to know how those shortcomings were addressed, what the investigations into the disappearance of children from shelters had found and how such disappearances would be prevented. She asked what steps had been taken by the Governments of Aruba and Curaçao to prevent the separation of migrant children from their parents and their detention.

36. She wished to know whether there were any plans to raise the age of criminal responsibility to 14 and what the impediments were to doing so. She asked why some children aged 16 and 17 were treated as adults in the criminal justice system, whether it was because the State party's youth justice system had proved insufficient and whether the provision was truly necessary, given that it was used only rarely. She would appreciate the delegation's comments on reports that children were occasionally detained with adults on Curaçao and she wished to know what measures were taken to prevent such detention. She asked why DNA samples were taken from some children after sentencing. What was the Government's position on the fact that the criminal records of children convicted of certain offences, including sexual offences, could not be expunged?

37. **Mr. Gudbrandsson** (Country Task Force) asked how the Government was addressing the cuts to personal health-care budgets and municipalities' inability to run related programmes owing to a lack of funding. The opening of two residential facilities for children with mental disabilities on Aruba suggested that the State party's policy on the social integration of children with disabilities was unclear. He asked whether measures were in place to increase the accessibility of preschool and early childhood education for children with disabilities, whether it was true that the number of children with disabilities in special schools was increasing and how inclusive education was guaranteed, including on Bonaire, Sint Eustatius and Saba.

38. He asked whether undocumented children had access to health care, particularly given the State party's requirement for all residents to take out insurance that covered basic health

care. He would appreciate information on the effect of the National Prevention Pact on reducing obesity among children and asked whether the proposed measures to increase the State party's low breastfeeding rates had been implemented. Noting the significant rates of severe mental health disorders among young persons in the State party, he asked whether the Government would address the underfunding of prevention measures and establish mental health services in schools. The data gathered by the State party on children's mental health appeared to be insufficient and fragmented. He wished to know how the State party was addressing the high rates of asthma in children caused by traffic pollution, and what progress had been made in developing and implementing an integrated child poverty policy based on the recommendations of the Children's Ombudsman.

39. **Mr. Madi** (Coordinator, Country Task Force) said that the State party could consider establishing two dates in the year for recruitment to the armed forces, in order to ensure that all recruits had reached the age of 18. The State party's failure to criminalize specifically the recruitment of children under 18 by non-State armed groups, in accordance with the Optional Protocol on the involvement of children in armed conflict, remained a cause for concern. Refugee status and the related protections should be extended to all children aged between 15 and 17. He asked whether double criminality was a requirement for the exercise of extraterritorial jurisdiction. It was a matter of grave concern that the State party did not focus actively on the repatriation of children who were nationals of the State party and had been involved in armed conflict abroad. He wished to know whether a mechanism existed for the early identification of children who might have been involved in armed conflict upon entry into the country and whether they received social and psychological support.

40. He asked whether the bill to criminalize various forms of the sale of children had been adopted and whether it included an explicit definition of the sale of children, in line with the Optional Protocol on the sale of children, child prostitution and child pornography, and addressed the sale of children under surrogacy arrangements. Lastly, he would appreciate receiving information on efforts to combat online sexual abuse material hosted on servers in the State party.

41. **Mr. Samuel** (Netherlands) said that coordinated efforts on Sint Maarten to tackle domestic violence, thereby reducing the need for children to be placed in alternative care, included training for professionals, such as probation officers and Government officials, in the delivery of a behavioural intervention programme for perpetrators of domestic abuse, both those ordered to complete the programme by the prosecutor's office or the courts and individuals participating voluntarily. A related video and brochure had been distributed, and a positive parenting programme was under development. Data collection was being addressed as part of work to establish a youth monitor on Sint Maarten, including through the development of a methodology for collecting and storing data from governmental and non-governmental bodies. Surveys and polls would be used to organize conferences and forums for young persons.

42. Children under the age of 12 were not automatically heard in court; requests to that effect could be submitted to the judge. With regard to combating discrimination against children from ethnic and minority groups, the sexual and reproductive health policy of Sint Maarten regulated care for young persons and minorities, and the Government enforced the principle of non-discrimination in all education, medical and social institutions. The resources of the Youth Parliament of Sint Maarten had recently been increased and an analysis had been made of its strengths, weaknesses, opportunities and threats.

*The meeting rose at 5 p.m.*