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KinderrechtenCollectief

CO-SUBMITTING ORGANISATIONS

Dutch NGO Coalition for Children's Rights:

- Defence for Children-ECPAT the Netherlands
- National Youth Council (NJR)
- Save the Children the Netherlands
- Terre des Hommes the Netherlands
- National Committee UNICEF the Netherlands

Through the Coalition for Children's Rights, organisations join forces to protect the interests of the child and supervise the safeguarding of children's rights in Dutch law, policy and practice.

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1. Introduction

The Dutch NGO Coalition for Children's Rights makes this joint submission to the Universal Periodic Review (UPR), on challenges children and young people face in the Netherlands to fulfil and execute their rights.

Through the Dutch NGO Coalition for Children's Rights, organisations join forces to protect the interests of the child and supervise the safeguarding of children's rights in Dutch law, policy and practice. The Coalition consists of key members Defence for Children, Kinderpostzegels, the National Youth Council, Save the Children, Terre des Hommes Netherlands and National Committee UNICEF the Netherlands, and has the Netherlands Youth Institute as their advisor.

Besides its key members, the Coalition has many other partners.

The Coalition was established in 1995, the year the Netherlands ratified the Convention on the Rights of the Child (the Convention). It coordinates the Written inputs to the state report, or alternative report, to the UN Committee on the Rights of the Child (UNCRC), in 2021 for the fifth time. See Annex for information on the submitting organisations.

Consultative meetings with civil society organisations and youth organisations were held in 2020 and 2021 to collect relevant data and information on progress in implementing the UNCRC Recommendations. Over 180 organisations and experts participated in these consultations and this resulted in the alternative report to the UNCRC in April 2021.¹ Information gathered in that reporting process is updated and used in this report.

2. Country Context

The Netherlands has an estimated population of 17.6 million, of which more than 3.4 million are aged under 18 years old.

Since 2010, the Kingdom of the Netherlands comprises four autonomous countries: the Netherlands, Aruba, Curaçao and St. Maarten. The islands of Bonaire, St. Eustatius and Saba became a direct part of the country the Netherlands. They are 'public entities', also referred to as special municipalities.

The Netherlands is a prosperous country, where most is well organized for children. But this does not yet apply to all children in our country. For example, one out of 13 children grow up in poverty. Unfortunately, children in the Netherlands are also victims of abuse, exploitation, or neglect. Refugee children in asylum seekers' centres cannot always go to school and have to move often. And many children experience racism and discrimination.

The Kingdom of the Netherlands ratified the Convention on the Rights of the Child in 1995. The Netherlands has also ratified the following international and regional human rights instruments relating to the protection of children: the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of Persons with Disabilities.

¹ Dutch NGO Coalition for Children's Rights (2021), *Written inputs to the state report The Netherlands*, https://www.kinderrechten.nl/assets/2021/04/Written_inputs_to_state_report_Netherlands_webversion.pdf

2.1 Previous UPR recommendations to the Netherlands

The Netherlands was reviewed during the 27th session in 2017 (Third Cycle), the 1st session in 2008 (First Cycle), and the 13th session in 2012 (Second Cycle). In 2017, 40 recommendations on children's rights were made to the Netherlands, of which the Netherlands supported 14.

This submission focuses on challenges for children and young people around the following issues:

- I. Acceptance of international norms and reservations
- II. Equity, non-discrimination and racial discrimination
- III. Asylum-seeking, refugee and migrant children
- IV. Protection against (sexual) exploitation and trafficking of children
- V. Children and youth in the criminal justice system

3. Acceptance of international norms and reservations

3.1. Previous recommendations

In the Third cycle, the Netherlands received 14 recommendations directly related to the acceptance of international norms and reservations made to the Convention on the Rights of the Child (Convention). The eleven recommendations by e.g. Belgium, France, Germany and Spain concern the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and three recommendations by Albania, Spain and Sierra Leone concern the reservations to articles 26 (c), 37 and 40 of the Convention on the Rights of the Child. The Netherlands took note of all these recommendations.

In relation to the Optional Protocol, the Netherlands noted the six recommendations made by e.g. Italy and Portugal, to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

3.2 International obligations

In February 2022, the UNCRC again urged the Netherlands to withdraw its reservations to articles 26, 37 (c) and 40 and to ratify the Optional Protocol to the Convention on a communications procedure. It therewith reiterated its recommendations from 1999, 2004, 2009 and 2015.

The Committee also recommended, in order to further strengthen the fulfilment of children's rights, to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

In June 2017, the Committee on Economic, Social and Cultural Rights invited the Netherlands to consider recognizing the competence of the Committee under article 11 of the Optional Protocol. The Convention on the Rights of Persons with Disabilities was ratified by the Netherlands in 2016, with a reservation to the Optional Protocol.

3.3 Current situation

3.3.1. Reservations

The reservations to articles 26, 37 sub c and 40 to the Convention are still in force and the government does not intend to withdraw them. This was lastly confirmed by the Secretary of State in the State Session of the Netherlands with the UNCRC in February 2022.

Because of this, it is still possible that:

- **16 and 17 years old can be tried according to adult criminal law;**
- **the right to a lawyer (free of charge) for minors can be restricted²;**
- **children are not (personally) entitled to social security rights, which hinders improving the situation of children living in poverty.³**

Moreover, children do not have a possibility to file a complaint with the UNCRC when their rights are violated and when they have exhausted their legal measures at the national level.

3.3.2 Reservation to Article 26

Due to this reservation, the benefits of social securities the Dutch can rely on, are not available to children. Despite various reports from the Ombudsman for Children, there is no progress in revising the reservation.⁴ Because of this reservation, the Netherlands deprives children of their individual right to social security.

Certain groups of children are excluded from social security, such as children who have barely any or no contact with their parents, children whose parents do not invest the social benefits in their children and children whose parents are in a situation that lacks social security - such as homeless children or families or children whose parents are being cut back on their benefits or allowances. The recent childcare benefits affair, in which approximately 26.000 parents became victims of false suspicions of fraud, painfully revealed that the argument that “in the Netherlands, every child benefits from payments to their parents” does not hold truth.⁵ The same goes for the state’s explanation that in individual cases of urgent need children can nevertheless claim social security⁶; in practice this is not the case.⁷

3.3.3 Optional Protocol 3 on a Communications Procedure

The Netherlands has not yet ratified the third Optional Protocol to the Convention on a communications procedure (UN Doc A/C.3/66/L.66). As a result, children cannot put forward their complaint of a rights violation under the Convention when their legal remedies at national level have been exhausted.

Recommendations:

- **Withdraw the reservations to articles 26, 37 sub c and 40 to the Convention.**
- **Ratify the third Optional Protocol to the Convention on a communications procedure.**

² Defence for Children Belgium (2019) *My lawyer, my rights – Manual for policymakers*
https://www.defenceforchildren.nl/media/2318/manual-for-eu-ms_web_en.pdf

³ Defence for Children & Save the Children (2019) *Kansen voor kinderen: een postcodetombola*
https://www.defenceforchildren.nl/media/4076/twopager_armoede_a4.pdf

⁴ Ombudsman for Children (2017), *Alle kinderen kansrijk. Het verbeteren van de ontwikkelingskansen van kinderen in armoede*; De Kinderombudsman (2017) *Nederlandse kinderen ontkoppeld*.
<https://www.dekinderombudsman.nl/publicaties>

⁵ Government of the Netherlands (2020), *Report of the Kingdom of the Netherlands under article 44 of the Convention on Rights of the Child (combined fifth and sixth periodic reports)*
<https://open.overheid.nl/repository/ronl-8dcead34-4cc3-4506-a8c9-3694b7e39bb5/1/pdf/report-of-the-kingdom-of-the-netherlands-answers-to-questions-1-33.pdf>

⁶ Ibid.

⁷ Verwey-Jonker Institute (2021), *Kinderen missen recht op sociale zekerheid Het Nederlands voorbehoud op artikel 26 IVRK*. <https://www.verwey-jonker.nl/publicatie/kinderen-missen-recht-op-sociale-zekerheid/>

4. Equity, non-discrimination and racial discrimination

4.1 Previous recommendations

During the Third cycle (2017), the Netherlands received 10 recommendations by e.g. Zambia, and Belarus, directly related to equality and (racial) discrimination of which two are referring to children. Bulgaria recommended strengthening the measures for fighting discrimination, Paraguay focused on combating all forms of discrimination against refugee children, asylum seekers and undocumented migrants, and Romania recommended continuing the process of eliminating the differences between the Caribbean and the European parts of the Netherlands as soon as possible.

With the exception of two (protect intersex persons from discrimination and, guarantee access to legal gender recognition for both intersex and transgender people) the recommendations were all supported.

4.2 International obligations

The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, visited the Netherlands in 2019. In her findings⁸, the Rapporteur calls for swift action to address persisting structures of racial discrimination, particularly related to education and she advises the Dutch government to promote the integration of children from marginalized groups in education and to invest more to combat social inequality. Children from minority groups attend secondary education less often and pass their secondary school exams less often than non-marginalized children. The UN Rapporteur was surprised to learn that some children receive lower education advice based on the education level or economic class of their parents.

The UN Committee on the Elimination of Racial Discrimination (CERD) has issued its findings on the Kingdom of the Netherlands, in August 2021.⁹ The Committee is concerned by reports of discrimination of students with ethnic minority and immigrant backgrounds, including that they are more likely to receive a lower assessment from their teachers for secondary school admissions than what they could receive based on their school results. The Committee recommends that the State party take measures to increase equal opportunities for all children in education, regardless of their background, and monitor the effectiveness thereof.

The UNCRC remains concerned during the 98th session (February 2022) that not all municipalities have an anti-discrimination service in accordance with the Municipal Anti-Discrimination Services Act, and that regional disparities and *de facto* discrimination disproportionately affect children in disadvantaged situations, including in education, youth care and the justice system.¹⁰ The UNCRC also recommends to improve the collection and analysis of data on discrimination against children.

⁸ Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2020), *Visit to The Netherlands*
https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A_HRC_44_57_Add2_AdvanceEditedVersion.docx

⁹ Committee on the Elimination of Racial Discrimination (2021), *Concluding observations on the combined twenty-second to twenty-fourth reports of the Kingdom of the Netherlands*
https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/NLD/CERD_C_NLD_CO_22-24_46534_E.pdf

¹⁰ Committee on the Rights of the Child (2022), *Concluding observations on the combined fifth and sixth periodic reports of the Netherlands*
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fNLD%2fCO%2f5-6&Lang=en

4.3 Current situation

4.3.1 Equal access to facilities

The responsibility for youth care was transferred to municipalities as of 2015, adding responsibilities including related to secured residential youth care, youth mental health care, forensic care, child protection services and juvenile rehabilitation, poverty policy, parenting support and prevention. The decentralisation of these responsibilities has resulted in differences in access and quality of services and facilities between municipalities.¹¹ A lack of knowledge within municipalities creates a mismatch between the care supply and the demand for care from municipalities. Not all local teams have, for example, specialist mental health care knowledge and the expertise needed to be able to make a proper assessment of the problem. This leads to late, premature or 'wrong' referrals.

Municipalities also differ in the concrete details of their poverty policy, the determination of the low-income threshold and the provision of facilities for children. As a result, a child's place of residence determines their chances. To combat poverty effectively, a (pro-)active involvement of the central government is required and currently lacking.¹²

The Netherlands ratified the UN Convention on the Rights of Persons with Disabilities in 2016, with the exception of the Caribbean Netherlands. Compulsory education in the Caribbean Netherlands ensures that children with a disability can exercise their right to education. There are no schools for primary or secondary education. Although schools aim to provide education for every child, through facilities that include children with a disability as much as possible, it is difficult to include children with severe disabilities. The problem appears to be most pressing on Bonaire, with some, but still limited, facilities.

Recommendations:

- **Provide equal access to care and social services for all children.**
- **Guarantee access to inclusive education for all children in the Caribbean Netherlands.**

4.3.2 Child-friendly reporting of discrimination

One in six students report discrimination. 83 percent of pupils or students with an experience related to discrimination has never reported this.¹³ In 2019, more than 2.000 LGBTI persons reported (to the police) about discrimination or violence. On average, this leads to less than ten convictions a year.¹⁴ It is unknown how many minors complain or report.

Discrimination can be reported to municipal hotlines, the police and NGO's. There are no child-friendly reporting procedures in place for children. Children do not or barely report to the police or other actors, leading to the fact that discrimination and racism against children in the Netherlands goes highly unnoticed and impunity persists.¹⁵ Children do seem to discuss the issue at the forum of the Dutch

¹¹ ZonMw (2018), *Eerste evaluatie Jeugdwet* <https://publicaties.zonmw.nl/eerste-evaluatie-jeugdwet/>

¹² Defence for Children and Save the Children (2019,) *Kansen voor kinderen: een postcodetombola?* https://www.defenceforchildren.nl/media/4076/twopager_armoede_a4.pdf

¹³ The Netherlands Institute for Social Research (SCP) (2020), *Perceived discrimination in the Netherlands II* https://www.scp.nl/binaries/scp/documenten/publicaties/2020/04/02/ervaren-discriminatie-in-nederland-ii/Samenvatting+Ervaren+discriminatie_ENG.pdf

¹⁴ COC Nederland (17-05-2019), *Ook Kamer wil meer maatregelen tegen geweld* <https://www.coc.nl/homepage/ook-kamer-wil-meer-maatregelen-tegen-geweld>

COC Nederland (24-04-2020), *Weer meer meldingen van LHBTI-discriminatie* <https://www.coc.nl/veiligheid-2/weer-meer-meldingen-van-lhbt-discriminatie>

¹⁵ Dutch NGO Coalition for Children's Rights and Rutu Foundation (2020), *Expert meeting and discussion paper Kinderrechten en Racisme* https://www.kinderrechten.nl/assets/2020/10/Discussiepaper-Kinderrechten-en-Racisme_Dec-2020.pdf

Child Helpline, but the helpline does not register discrimination and racism separately.¹⁶ Most reports coming in, are in the context of education.¹⁷

Recommendations:

- Educate children so they know what constitutes racism and discrimination and where to report it.
- Register age in complaints and reports for more insight into the extent of discrimination against children.
- Make reporting to hotlines child-friendly and accessible.
- Provide sufficient knowledge about discrimination and racism among various professionals and in vocational training, including educational staff, police, youth care and at discrimination hotlines.

4.3.3 Discrimination

Little is known about discrimination and racism against children, partly because little is reported and registered. Children experience discrimination in education, leisure, online, on the streets, in youth care and in the juvenile criminal law system.¹⁸

In 2013, eight percent of all students and children of school age had an experience with discrimination in education. This increased to fifteen percent in 2018.¹⁹ Three percent of all students and pupils dropped out of their education as a result of discrimination.

More than half of the LGB children and children with a migration background experience discrimination at school.²⁰

Children with a disability sometimes have to attend special education or do not attend any education, because regular education is not sufficiently accessible to them.²¹ Children with a migration background are overrepresented in special education in the Netherlands²² and more likely to face discrimination in admission, to obtain a lower secondary school advice from their teacher, influenced by bias,²³ and face discrimination in internships.²⁴

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ See footnote 13

²⁰ Ibid.

²¹ ITS/Radboud University Nijmegen (2014), *Leerlingverzuim in beeld. Een studie naar de cijfers en registratie van absoluut en relatief verzuim*

<https://www.parlementairemonitor.nl/9353000/1/j9vvij5epmj1ey0/vjo3jie034zk>

In 1school (2016) *Schendingen Recht op Inclusief Onderwijs*. <https://in1school.nl/images/kennis-opinie/onderzoeken-in1school/Rapport-schendingen-recht-op-inclusief-onderwijs.pdf>

leder(in) (2018) *Zwartboek: Ouders aan het woord. Jouw kind heeft een beperking, waar loop je tegen aan?*

<https://iederin.nl/documenten/zwartboek-ouders-aan-het-woord/>

²² ECRI (2019), *Report on The Netherlands, Fifth Monitoring Cycle* <https://rm.coe.int/fifth-report-on-the-netherlands/168094c577> and Statistic Netherlands (CBS), <https://www.cbs.nl/nl-nl/cijfers/detail/83295NED>

²³ See footnote 13 SCP

²⁴ Kennisplatform Integratie en Samenleving (2016), *MBO en de stagemarkt, wat is de rol van discriminatie?* <https://www.kis.nl/sites/default/files/bestanden/Publicaties/mbo-stagemarkt-rol-van-discriminatie.pdf>

Multilingual children experience discrimination because of the native language they speak.²⁵ Very few teachers are able to teach in multilingual classes.²⁶ Foreign languages are ignored, banned (for example in school regulations) and using it is punished.²⁷

The content of educational materials often contains stereotypical images. For example, history books regularly contain racist and colonial stereotypes.²⁸ Racism and discrimination also occurs between students and against students by teachers.²⁹

Minors with a non-Western migration background are confronted with ethnic profiling by the police.³⁰ They are more than three times as likely to be registered as a suspect.³¹ The chance of ending up in juvenile detention is more than six times higher for minors with a non-Western migration background than for their native Dutch peer. For young people of Antillean and Moroccan background, it is even more than ten times higher.³²

A National Coordinator for Discrimination and Racism was appointed in 2021.

Recommendations:

- **Investigate discrimination against (groups of) children and young people.**
- **Provide schools with tools to implement inclusive language policy and remove teaching materials with discriminatory and racist content.**

²⁵ Rutu Foundation (2020), *Alternative Report to the UN Committee on Racial Discrimination on Language Based Exclusion, Punishment and Discrimination in Dutch Education* <https://www.rutufoundation.org/wp-content/uploads/2020/03/Rutu-Foundation-Alternative-Report-to-CERD-on-Netherlands-27-March-2020-final-report.pdf>

²⁶ National Center for Expertise in Curriculum Development (SLO), (2018) *Multilingualism in primary and secondary education. A state of affairs and curricular recommendations*, pg. 5 <https://slo.nl/publish/pages/3214/meertaligheid-in-primair-en-voortgezet-onderwijs.pdf>

²⁷ <https://www.rutufoundation.org/wp-content/uploads/2020/03/Rutu-Foundation-Alternative-Report-to-CERD-on-Netherlands-27-March-2020-final-report.pdf>, and <http://www.defenceforchildren.nl/actueel/blog/carrie-van-der-kroon/helemaal-jezelf-mogen-zijn-op-school-een-kinderrecht/> and Amsterdam District Court, 30 October 2013, para. 3.3 ECLI:NL:RBAMS:2013:8224: <http://bit.ly/2r7gtaA>.

²⁸ Het Parool (19-05-2018) *Onderzoek naar racistisch lesmateriaal op basisscholen* <https://www.parool.nl/nieuws/onderzoek-naar-racistisch-lesmateriaal-op-basisscholen~bc84b019/>

²⁹ AT5 (21-03-2021) *Docent Calandlyceum op non-actief na uitspraak over "klote-Marokkaantjes"* <https://www.at5.nl/artikelen/207994/docent-calandlyceum-op-non-actief-na-uitspraak-over-klote-marokkaantjes> and Dutch NGO Coalition for Children's Rights and Rutu Foundation (2020) *Expert meeting en discussiepaper Kinderrechten en Racisme* https://www.kinderrechten.nl/assets/2020/10/Discussiepaper-Kinderrechten-en-Racisme_Dec-2020.pdf

³⁰ The Control Alt Delete organisation <https://controlealtdelete.nl/over-ons> uses the following definition of ethnic profiling: "the police's use of criteria or considerations regarding 'race', color, ethnicity, nationality, language and religion in investigation and law enforcement even though there is no objective justification for it".

³¹ Boon, A. , Van Dorp, M. & De Boer, S. (2018) *Oververtegenwoordiging van jongeren met een migratieachtergrond in de strafrechtketen* in Tijdschrift voor Criminologie. https://www.bjutijdschriften.nl/tijdschrift/tijdschriftcriminologie/2018/3/TvC_0165-182X_2018_060_003_001.pdf

³² Ibid.

5. Asylum-seeking, refugee and migrant children

5.1 Best interests of the child

There were no previous recommendations in the former UPR concerning the best interests of the child. However, this is an important point for a careful and fair asylum procedure that does justice to the Convention on the Rights of the Child.

The Dutch Aliens Act does not include any formal criteria for determining the best interests of the child, and these interests are not systematically taken into account.³³ Meanwhile, decisions taken by the Immigration and Naturalisation Service (IND) insufficiently reveal how the best interests of the child are being assessed. It is claimed that the best interests of the child have been researched, but it is unknown how this was done and what factors were taken into consideration.

To determine the best interests of the child, a thorough assessment of the child's situation is required, based on the ruling concerning repatriation of the Court of Justice of the European Union (CJEU)³⁴ with regard to cases of Unaccompanied Minor Foreign Nationals (UMFNs) and minor foreign nationals in general. This includes the child's age, physical and mental health, and stay in a foster family. The Court concluded that a decision about repatriation of UMFNs and minor foreign nationals in general cannot be taken if there is no adequate care available in the country of origin.

The government states in its coalition agreement (2021-2025) that the best interests of the child will be better taken into account in the asylum procedure, taking into account international jurisprudence and policy in neighbouring countries.

Recommendations:

- Incorporate the best interests of the child into immigration law through the current private member's bill.³⁵
- Revise the policy on UMFNs, ensuring a clear focus on the best interests of the child.
- Article 5(5) Directive 2003/86/EC (Family Reunification Directive) states that Member States should have due regard for the best interests of the child. This article should be implemented in Dutch law.

³³ United Nations High Commissioner for Refugees (UNHCR) (2019), *In de eerste plaats een kind* <https://www.unhcr.org/nl/wp-content/uploads/UNHCR-Children-First-2019-screen.pdf>

³⁴ CJEU (14-01-2021), *Judgement in case C-441/19* <https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-01/cp210005en.pdf>

³⁵ Legislative proposal of the House of Representatives *Verankeren belang kind in procedure tot verkrijgen van een verblijfsvergunning* https://www.eerstekamer.nl/wetsvoorstel/34541_initiatiefvoorstel_van_ojik and Defence for Children (26-06-2019) *Wetsvoorstel belang van het kind moet zwaarder wegen in vreemdelingenwet* <https://www.defenceforchildren.nl/actueel/nieuws/migratie/2019/wetsvoorstel-belang-van-het-kind-moet-zwaarder-wegen-in-vreemdelingenwet/> and UNICEF the Netherlands (10-09-2018) *Het belang van het kind moet voorop staan in asiel- en vreemdelingenbeleid* <https://www.unicef.nl/nieuws/2018-09-10-belang-van-het-kind-moet-voorop-staan-in-asiel-en-vreemdelingenbeleid>

5.2 Separation from parents and child detention

5.2.1 Previous recommendations

The Netherlands supported the recommendation by Mexico to process expeditiously requests by refugees for family reunification to ensure that unaccompanied minors are able to reunite with their families.

Children are usually not separated from their parents during asylum and return procedures. However, it is a matter of concern that separated deportation is possible under the law, and actually takes place in exceptional cases.³⁶ It is worrying that the government detains families with children and UMFNs as part of asylum and return procedures.³⁷ Children are detained relatively often and for too long, as acknowledged by the Secretary of State.³⁸ In 2019, a total of 190 children were placed in immigration detention³⁹ prior to (forced) return and 10 children in border detention.⁴⁰ In 2019, 30 UMFNs were detained for 16 days on average, while the maximum legal period is 14 days. Some were detained for as long as 82 days. Families with children were detained for 10 days on average, and, at the beginning of 2020, one family was detained for as long as nine weeks.⁴¹

Recommendation:

- **Do not evict children separately from their parents, look for other options rather than detention, and do not extend the detention period for families with children.**

5.2.2 Family reunification

Requirements to prove family relationships and identity are often unrealistic.⁴² The IND sometimes rejects applications without offering alternatives such as DNA testing or interviewing, while this should not be a reason for rejection according to the European Family Reunification Directive.⁴³ In addition, waiting times are long and the number of family reunification permissions has dropped significantly.⁴⁴

³⁶ Martin Vegter, legal Advisor on Children's Rights and Migration, Defence for Children

³⁷ The Netherlands has two forms of migration detention: border detention and immigration detention for return purposes. It is illegal to detain children at the border, but immigration detention for return purposes is permitted.

³⁸ kst-19637-2473 (22-02-2019), *Alleenstaande minderjarige asielzoekers*
<https://zoek.officielebekendmakingen.nl/kst-19637-2473.html>

³⁹ The family facility comprises chalets with child-friendly spaces, but it is closed. See
<https://www.dji.nl/locaties/z/detentiecentrum-zeist-vreemdelingen>

⁴⁰ Custodial Institutions Agency (DJI), delivered on 21 August 2020 by Directorate-General for Migration of the Ministry of Justice and Security. The numbers have been rounded off to the nearest 10.

⁴¹ Data cited in this paragraph are taken from statistics of the DJI that were sent to UNICEF the Netherlands by the Repatriation and Departure Service (DT&V), in October 2019.

⁴² WODC (2018), *Factsheet 'Unaccompanied minor asylum seekers in the Netherlands: choice or chance?'*
https://repository.wodc.nl/bitstream/handle/20.500.12832/213/Cahier_2018-18_2874_Volledige_tekst_tcm28-356301.pdf?sequence=1&isAllowed=y

⁴³ Lodder, G.G., & Klaassen, M.A.K. (2020) *Kroniek gezinshereniging 2018-2019* in *Asiel & Migrantenrecht* nr 1, pp. 16-17 <https://docplayer.nl/11099253-Kroniek-gezinshereniging-i.html>

⁴⁴ WODC (2018,) *Factsheet 'Unaccompanied minor asylum seekers in the Netherlands: choice or chance?'*
https://repository.wodc.nl/bitstream/handle/20.500.12832/213/Cahier_2018-18_2874_Volledige_tekst_tcm28-356301.pdf?sequence=1&isAllowed=y

kst-19637-2543 (18-11-2019) *Terugbrengen doorlooptijden asielaanvragen en stand van zaken dwangsommen* <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/11/18/brief-tweede-kamer-terugbrengen-doorlooptijden-asielaanvragen-en-stand-van-zaken-dwangsommen>

Recommendation:

- Introduce realistic burden of proof requirements and do not reject applications without offering alternatives such as DNA testing or interviewing.⁴⁵

5.3 Access to basic services

The COA, TeamUp, Time4You and Stichting de Vrolijkheid organise activities in asylum seekers' centres on a weekly basis, to strengthen children's social-emotional skills and help them cope with adverse experiences.⁴⁶ However, access to such sports activities and games varies across locations⁴⁷ and was hampered during COVID-19, which means too little attention is paid to children's social-emotional development and the impact of the traumatic experiences many of the children have faced, remains largely ignored.⁴⁸ Children are legally obliged to go to school within 3 months of entering the Netherlands⁴⁹, but they rarely have immediate access to education. This is also due to the unnecessary number of relocations/movements, which means education is often discontinued or interrupted for a period of time, negatively affecting the learning and wellbeing of children.

Recommendations:

- Organize activities in asylum seekers' centres to strengthen children's social-emotional skills and help them cope with adverse experiences.
- Ensure that children have immediate and adequate access to regular education.
- Ensure continuous attention to children's social emotional development
- Develop and adhere to criteria to limit the number of movements of children to an absolute minimum when dealing with relocations.

5.4 Information

It is not standard procedure to involve children in families in meetings with authorities and lawyers.⁵⁰ Furthermore, parents do not get help when informing their children. Also due to long waiting times at the IND, UMFNs have access to a lawyer only a few weeks or days before their asylum application procedure starts, following an age assessment⁵¹ which is not evidence-based⁵² or multidisciplinary, and does not take into account the cultural background and development⁵³ of UMFNs.⁵⁴

⁴⁵ See footnote 43 Lodder & Klaassen

⁴⁶ Website [Central Agency for the Reception of Asylum Seekers](#) (COA) Website [TeamUp](#) Website [Time4You](#) Website [Stichting de Vrolijkheid](#)

⁴⁷ Werkgroep Kind in azc (2018), *Leefomstandigheden van kinderen in asielzoekerscentra en gezinslocaties* https://www.unicef.nl/files/1_online.pdf

⁴⁸ Association of Health Funds (SGF) & Market Response (2020), *De plek voor sociaal emotionele vaardigheden in het onderwijs* <https://marketresponse.nl/wp-content/uploads/31634.-Rapportage-De-plek-van-sociaal-emotionele-vaardigheden-in-het-onderwijs.pdf>

⁴⁹ Education Council (2017) *Vluchtelingen en onderwijs* <https://www.onderwijsraad.nl/publicaties/adviezen/2017/02/23/vluchtelingen-en-onderwijs>

⁵⁰ UNICEF the Netherlands (2019), *Child-sensitive return. Upholding the best interests of refugee and migrant children in return decisions and processes in the Netherlands* <https://www.unicef.nl/files/UNC%20Country%20Report%20NL%20FINAL%20web.pdf>

⁵¹ An age assessment is conducted in case of doubt about the age of alleged minors.

⁵² Keunen et al. (2013), *Age assessment of unaccompanied minor asylum seekers in the Netherlands: Radiological examination of the medial clavicular epiphysis*

⁵³ UNHCR (2009) *Guidelines on International Protection No. 8 on Child Asylum Claims*, para.7 <https://www.unhcr.org/publications/legal/50ae46309/guidelines-international-protection-8-child-asylum-claims-under-articles.html>

Save the Children (2012), *Position Paper on Age Assessment in the Context of Separated Children in Europe* <https://resourcecentre.savethechildren.net/document/position-paper-age-assessment-context-separated-children-europe/>

⁵⁴ De Groene Amsterdammer (22-01-2020) *Geboortedatum onbekend* <https://www.groene.nl/artikel/geboortedatum-onbekend>

Recommendations:

- Offer child-specific support during asylum and return procedures. To this end, formulate a policy for unaccompanied and accompanied children.⁵⁵
- Offer child-friendly information appropriate to the child's age and abilities during asylum and return procedures.

6. Protection against (sexual) exploitation and trafficking of children

6.1. Previous recommendations

Five recommendations given in the Third UPR Cycle related to exploitation and trafficking of children are supported by the Netherlands:

- Redouble efforts to identify victims of human trafficking among asylum seekers, in particular unaccompanied children (D27)
- Strengthen efforts to combat human trafficking (D27)
- Ensure the protection and rehabilitation of victims of sexual exploitation (B53)
- Continue efforts to protect children from sexual exploitation, protect unaccompanied refugee children and protect them from enforced disappearance (F33)
- Continue its solid efforts to strengthen the protection of the rights of the child, particular with regard to child trafficking and child sex tourism (F31)

6.2 International obligations

In addition to the Convention on the Rights of the Child, the Netherlands has ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the ILO Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190), and the Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

6.3 Current situation

6.3.1 Identification of child victims

The proportion of reported child victims of human trafficking continues to fall, from 25% of all victims in 2015 to 8% in 2019. There is no indication that this problem is actually decreasing.⁵⁶ On estimate, one third of victims are minors.⁵⁷

When comparing observed and estimated cases of human trafficking, child victims of sexual exploitation have a particularly low visibility.⁵⁸ Of the known child exploitation victims, about 85% are

⁵⁵ UNICEF Netherlands (2019) *Child-sensitive return. Upholding the best interests of refugee and migrant children in return decisions and processes in the Netherlands.*

<https://www.unicef.nl/files/UNC%20Country%20Report%20NL%20FINAL%20web.pdf>

⁵⁶ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2020), *Human Trafficking Victims Monitoring Report 2015-2019*

<https://www.dutchrapporteur.nl/publications/reports/2020/12/14/human-trafficking-victims-monitoring-report-2015-2019>

⁵⁷ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2017), *Slachtoffermonitor mensenhandel 2012-2016*

<https://www.nationaalrapporteur.nl/publicaties/rapporten/2017/10/18/slachtoffermonitor-mensenhandel-2012-2016>

⁵⁸ Van Dijk, J., Cruyff, M. & Heijden van der P. (2021) *Multiple Systems Estimation Slachtoffers Mensenhandel Nederland 2016-2019*

victims of sexual exploitation.⁵⁹

Vulnerable populations include unaccompanied children seeking asylum, children with mild intellectual disabilities, girls with the eating disorder anorexia nervosa and homosexual/bisexual boys. Oftentimes, victims cope with multiple problems simultaneously, including developmental issues during puberty, trauma, addiction, psychiatric issues, coping and attachment problems, sexual and physical abuse.⁶⁰

45% of human trafficking victims in the Netherlands become a victim of another crime within five years. Child victims of exploitation have a higher risk of revictimization, compared to victims who were victimized when they were older than 23 years.⁶¹

Recommendations:

- **Improve insights into the nature and scale of human trafficking of minors;**
- **Prevent re-victimization: ensure early identification and provide customized care of children taking into account their specific vulnerabilities.**

6.3.2 Efforts to combat human trafficking

The number of suspects of human trafficking decreased in 2016-2019⁶² but has been increasing in 2020 and 2021.⁶³ In 2019, 145 of the targeted 190 human trafficking suspects were prosecuted (311 in 2012). Dismissals of cases increased from 27% (2016) to 41% (2019).⁶⁴

A significant increase is found in the number of young sexual exploitation offenders: one-third is below the age of 23.⁶⁵

The approach to combat human trafficking remains fragmented, with a lack of coordination on local, regional and national levels and too little attention for prevention.⁶⁶ Municipalities are obliged to develop an approach to tackle human trafficking by 2022. In 2021, a plan was presented to realize this goal.⁶⁷

The government programme Combatting Human Trafficking Together ('Samen tegen Mensenhandel')

⁵⁹ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2020), *Human Trafficking Victims Monitoring Report 2015-2019*
<https://www.dutchrapporteur.nl/publications/reports/2020/12/14/human-trafficking-victims-monitoring-report-2015-2019>

⁶⁰ Ibid.

National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019), *Factsheet Human Trafficking Offenders Monitoring Report 2013-2017*
<https://www.dutchrapporteur.nl/publications/reports/2019/05/02/factsheet-human-trafficking-offenders-monitoring-report-2013-2017>

⁶¹ National Rapporteur do against human trafficking and sexual violence against children Nationaal (2021), *Slachtoffermonitor Mensenhandel 2016-2020*

⁶² Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen (2021), *Dadermonitor mensenhandel 2015-2019*,
<https://www.nationaalrapporteur.nl/publicaties/rapporten/2021/01/21/dadermonitor-mensenhandel-2015-2019>

⁶³ Brief van de staatssecretarissen van Justitie en Veiligheid en Volksgezondheid, Welzijn en Sport, (17-11-2021), *Letter about progress of the Together against human trafficking programme*
<https://open.overheid.nl/repository/ronl-69554e6a-2046-4811-8d2f-e4d0d82d6888/1/pdf/tk-voortgangsbrief-programma-samen-tegen-mensenhandel.pdf>

⁶⁴ See footnote 62

⁶⁵ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019), *Factsheet Human Trafficking Offenders Monitoring Report 2013-2017*
<https://www.dutchrapporteur.nl/publications/reports/2019/05/02/factsheet-human-trafficking-offenders-monitoring-report-2013-2017>

⁶⁶ See footnote 59

⁶⁷ See footnote 63

launched in 2018, will continue under the current coalition agreement. Subjects receiving less attention in 2018 are now on the agenda, such as criminal exploitation of children, online sexual exploitation and tackling customers.⁶⁸⁶⁹

Recommendations:

- **Focus on the prosecution of human traffickers and offenders that buy sex of minors.**
- **Develop an effective preventative approach focusing on young offenders of sexual exploitation.**
- **Promote coordination and cooperation between the different actors that focus on combatting human trafficking.**

6.3.3 Legislation and policy relevant to human trafficking

The modernised sexual offenses bill is expected to be submitted to the House of Representatives in Spring 2022 and to enter into force in 2024. The law aims to safeguard the position of victims more strongly and is geared towards addressing online elements of sexual exploitation.⁷⁰

Dutch legal instruments and opportunities to prevent transnational sexual child abuse are little used and police capacity to tackle it is limited.⁷¹

The special consideration for particular groups in criminal procedures of the EU Directive 2012/2919⁷² is not explicitly taken up in the Dutch Decision on Victims' Right.⁷³ Although Dutch law has implemented the requirement for individual need assessment of victims within criminal proceedings, it does not recognize the vulnerable position of children. This could for instance be improved by limiting the number of interviews and ensuring child-friendly interviews.⁷⁴

A policy change making children eligible for a temporary residency permit even if they do not report human trafficking was implemented in 2019.⁷⁵ In practice these permits are hardly ever issued, because concrete investigative indications are lacking.⁷⁶

⁶⁸ Commissie Azough (2014) *Hun verleden is niet hun toekomst*

<https://www.rijksoverheid.nl/onderwerpen/mensenhandel-mensensmokkel/documenten/rapporten/2014/12/08/hun-verleden-is-niet-hun-toekomst>

⁶⁹ Universiteit Utrecht (2021), *Uitbuiting van minderjarigen in de criminaliteit in Nederland*, https://repository.wodc.nl/bitstream/handle/20.500.12832/2246/2672_summary_tcm28-232341.pdf?sequence=3&isAllowed=y

⁷⁰ Government of the Netherlands (06-12-2021) *Sexual violence tackled faster and more often* [Seksueel geweld sneller en vaker aangepakt](#)

⁷¹ WODC (2021), *Grenzeloos!? Een verkennend onderzoek naar het instrumentarium in relatie tot (veroordeelde) plegers van transnationaal seksueel kindermisbruik*

<https://repository.wodc.nl/bitstream/handle/20.500.12832/3144/3173-grenzeloos-instrumentarium-veroordeelde-plegers-transnationaal-seksueel-kindermisbruik-volledige-tekst.pdf?sequence=1&isAllowed=y>

⁷² IRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

⁷³ Besluit slachtoffers van strafbare feiten. <https://wetten.overheid.nl/BWBR0038468/2021-07-01>

⁷⁴ Defence for Children (2021), *Bescherming minderjarige slachtoffers seksuele uitbuiting in strafrechtelijke procedures* https://www.defenceforchildren.nl/media/5710/def_rapport-capisce_web.pdf

⁷⁵ Staatscourant (30-09-2019), *Wijziging van de Vreemdelingen-circulaire 2000*

<https://zoek.officielebekendmakingen.nl/stcrt-2019-52982.html>

⁷⁶ LaStrada International (2021), *Residence Permits, International Protection and Victims of Human Trafficking*, <https://documentation.lastradainternational.org/lsidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>

Recommendations:

- **Ensure the sexual offenses law is implemented as soon as possible after its adoption.**
- **Increase police capacity, deploy the available instruments and focus on response and prevention in order to combat transnational sexual child abuse.**
- **Stop linking (temporary) residence permits for under-age presumed victims of human trafficking to criminal legal procedures.**

6.3.4 Protection and rehabilitation of victims

Victims of sexual violence often do not have access to appropriate support in time. In 2017 and 2018, 15% of identified victims of sexual violence did not receive support within six months.⁷⁷ In total, 10% of the victims of human trafficking have stopped receiving youth care prematurely.⁷⁸

Specialized youth care, which is essential for long-term recovery and prevention of re-victimization, is not always procured by municipalities.⁷⁹ The support children receive depends on the municipality where they live and their residence status instead of on their needs.⁸⁰

Placement in a closed institution is a regular occurrence (41%) among child victims. It is questionable whether closed institutions are applied as a last resort, whether it is an effective security measure and whether closed placement can provide the needed support. The central Youth Care Authority indicates that it has no specific insight into crisis placements and the forms of residence that victims receive.

Recommendations:

- **Prioritize early provision of care (family support services and youth work) and make specialized youth care accessible to all victims instead of depending on municipality or residence status.**
- **Gain insights and evaluate the necessity and effectiveness of crisis and secured placements and ensure placement in a secured residential care facility becomes an exception**

⁷⁷ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2019), *Factsheet accompanying the Sexual Violence against Children Victims Monitoring Report 2017-2018* <https://www.dutchrapporteur.nl/publications/reports/2019/12/23/factsheet-sexual-violence-against-children-monitoring-report-2017-2018>

⁷⁸ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2021), [Slachtoffermonitor Mensenhandel 2016-2020](#)

⁷⁹ In the Netherlands, youth care has been decentralized as of 2015. As of that year, municipalities bear the responsibility for youth care.

⁸⁰ See footnote 78

7. Children and youth in the criminal justice system

7.1 Previous recommendations

In the Third UPR-cycle, the Netherlands received 3 recommendations from Zambia, Botswana and Egypt, directly related to youth criminal justice. None of those are supported.

7.2 International obligations

In February 2022, the UNCRC provided Concluding Observations and Recommendations⁸¹, asking the Netherlands to consider raising the age of criminal responsibility to at least 14 years (par. 41, a) and to consider a review of the law to ensure the application of its child justice system to all children below the age of 18 years (par. 41, b). The Committee recommends to prevent and limit the use of pretrial detention by ensuring that children arrested and deprived of their liberty are promptly brought before a competent authority to examine the legality of the deprivation of liberty or its continuation (par. 41, c); as well as to monitor the application of deprivation of liberty to ensure that it is used only as a measure of last resort and for the shortest possible period of time (par. 41, d). Furthermore, the Committee recommends ensuring that any separation of a child from other children is for the shortest possible time and is used only for the protection of the child or others, in the presence of, or under the close supervision of, a suitably trained staff member, and that the reasons and duration are recorded (para 41, e).

The Committee also recommends ensuring that in all parts of the Kingdom, in cases where detention is unavoidable, children are not detained together with adults and that detention conditions comply with international standards (para 41, f). Related to that, the Netherlands is recommended to develop a strategy for the prevention of child offending in all parts of the Kingdom, including early intervention directed at children below the minimum age of criminal responsibility (para. 41, g).

Lastly, the Committee recommends reviewing aspects of its criminal record system that prevent children charged with certain offences from obtaining a certificate of conduct, including by erasing the criminal record of children who are acquitted or have completed their sentence, including for sexual offences (para. 41, j).

The UN Committee encourages developments regarding alternatives to deprivation of liberty and small-scale facilities but is also concerned. It recommended once more to withdraw the reservations on Articles 37 and 40 of the Convention. The Committee also draws attention to children in police cells and in pre-trial detention and recommends that they be brought before a judge much sooner, preferably immediately.

7.3 Current situation

7.3.1 Child-friendly procedures

The Netherlands should be more progressive in implementing European guidelines and the recommendations of the UNCRC. Despite the modernisation of the Code of Criminal Procedure and the implementation of the “Children’s directive” (EU Guideline 2016/800), a child-friendly procedure is still insufficiently guaranteed in youth criminal law. To date, the government has not taken any action to end the application of adult criminal law on 16 and 17 year olds.⁸²

⁸¹ CRC/C/NLD/CO/5-6, par. 41.

⁸² It is unknown how many times adult criminal law was applied on 16 and 17 year olds in 2021. Also see pages 3-4 Reservations.

Suspects, minor of age, that have to stay at the police station, are still not treated in a child-friendly way.⁸³ The policy with regard to a special custody officer for minors is not sufficiently applied.⁸⁴ The RSJ⁸⁵ also advises⁸⁶ to shorten the time children spent in a police cell to 24 hours, after which the judge decides further on their deprivation of liberty. Furthermore, the right to free legal aid only applies to minor suspects who are arrested and/or held at the police station. Although in court a judge has decided EU directive 2016/800 is not well implemented, minor suspects who are not arrested and minors below the age of twelve, are still not entitled to free legal aid.⁸⁷

The urgent request from the UNCRC to make the youth criminal law procedure child-friendly by using an alternative settlement, has not been followed up. The government does not intend to provide the penalty order, issued by a public prosecutor without judicial intervention, with the necessary safeguards. When there is no more than a 20 hour-community sentence or € 115 fine imposed, children do not have a right to free legal aid. The penalty order is however visible on judicial documentation. Children with a migration background and children who have a mild mental impairment are overrepresented in the youth criminal justice system and in detention.⁸⁸

Recommendation:

- **Guarantee a child-oriented procedure in youth criminal law and ensure that all minor suspects have a right to free legal aid.**

7.3.2 The minimum age for criminal responsibility

The minimum age for criminal responsibility is twelve years. In 2019, the police heard 448 children of twelve years old and 1,378 children of thirteen years old. It is a matter of concern that 26 children aged twelve or thirteen were placed in a young offender institution.⁸⁹ The Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ) recommends raising this age limit to 14 or 16 years old and that voluntary or forced youth care for children should be preferred over youth criminal law.⁹⁰ The state report shows that the government does not intend to raise the age for criminal responsibility to 14 or 16 years, in line with General Comment no. 24 of the UNCRC.

Recommendation:

- **Raise the minimum age for criminal responsibility to 14 or 16 years old.**

⁸³ Ombudsman for Children (2020) *Afkoelen in de isoleercel*; De Kinderombudsman (2020) *Van bed gelicht*. <https://www.dekinderombudsman.nl/publicaties>

⁸⁴ The Police (2016) *Landelijk reglement arrestantenzorg* <https://www.politie.nl/binaries/content/assets/politie/onderwerpen/arrestantenzorg/reglement-arrestantenzorg-versie-2016.pdf>

⁸⁵ The Council for the Administration of Criminal Justice and Protection of Juveniles.

⁸⁶ RSJ (2019) *Minderjarigen in een politiecel, een advies over duur, verblijf en alternatieve locaties* <https://www.rijksoverheid.nl/documenten/rapporten/2020/01/29/tk-bijlage-minderjarigen-in-een-politiecel>

⁸⁷ Also see page 8 Reservations. Rb Amsterdam, 9-11-2021

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:6411>

⁸⁸ WODC (2017) *Voorlopige hechtenis van jeugdigen in uitvoering. Een exploratief kwantitatief onderzoek naar rechterlijke beslissingen en populatiekenmerken*

<https://scholarlypublications.universiteitleiden.nl/access/item%3A2949463/view>

⁸⁹ UNICEF Netherlands and Defence for Children (2021) *Kinderrechten in cijfers 2020* <https://www.kinderrechten.nl/kinderrechten-in-cijfers-2020/>

⁹⁰ RSJ (2017) *Verhoging strafrechtelijke minimumleeftijd in context Advies over verhoging van de strafrechtelijke minimumleeftijd en het belang van goede jeugdhulp* <https://www.rsj.nl/documenten/rapporten/2017/12/20/advies-verhoging-strafrechtelijke-leeftijd>

7.3.3 Pre-trial detention

68% of the 1,321 children in youth justice facilities in 2020 were in pre-trial detention. They were held there for an average of 38 days.⁹¹ The rapid development of small-scale facilities is fundamental to improve the flow of cases from criminal law to the civil law procedures.⁹²

Recommendation:

- **Invest in small-scale (specialist) care, for cases to be transferred from criminal to civil proceedings.**

7.3.4 The right to an individual needs assessment

For child victims and child suspects of serious crimes, such as knife violence and exploitation, a systemic and comprehensive individual needs assessment is not fully in place (see article 40 CRC and EU directives EU2016/800 and EU2012/29). A more holistic child centred, inclusive and participatory approach including procedural safeguards for children is needed. For example, customised care or child friendly police hearings are not yet common for all child victims and suspects.⁹³ The quality and practice of the individual needs assessment is different for child victims and child suspects and during the various stages of the criminal procedure.⁹⁴ For child victims the individual needs assessment is conducted mainly at the stage of the police. For child suspects the assessment is updated during the process, but it is mostly focused on preventing recidivism.

Recommendations:

- **Guarantee a child-oriented procedure in youth criminal law and ensure that all child suspects have a right to free legal aid**
- **Raise the age for criminal responsibility to 14 or 16 years old**
- **Invest in small-scale (specialist) care, for cases to be transferred from criminal to civil proceedings**

⁹¹ Dutch NGO Coalition for Children's Rights (2021), *Children's Rights in Numbers*. https://www.kinderrechten.nl/assets/2021/11/DFC-21-08-jaarbericht-kinderrechten-in-cijfers-Jeugdstrafrecht_LR.pdf

⁹² Health Care and Youth Inspectorate (2021) *Zorgsignalen tijdens COVID-19crisis*. <https://www.igi.nl/actueel/nieuwsbrieven/zorgsignalen-tijdens-coronacrisis/2021/zorgsignalen-tijdens-coronacrisis--20-januari>

⁹³ Justice and Security Inspectorate (2021) *Een kwetsbaar recht, Een onderzoek naar de toepassing van de Individuele beoordeling van slachtoffers door de politie* <https://www.inspectie-jenv.nl/actueel/nieuws/2021/09/27/rapport-een-kwetsbaar-recht>

⁹⁴ Ibid.

8. Annex

Through the Coalition for Children's Rights, organisations join forces to protect the interests of the child and supervise the safeguarding of children's rights in Dutch law, policy and practice. The Coalition consists of key members Defence for Children, Kinderpostzegels, the National Youth Council, Save the Children, Terre des Hommes Netherlands and National Committee UNICEF The Netherlands, and has the Netherlands Youth Institute as their advisor. Besides its key members, the Coalition has many other partners.

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Defence for Children Netherlands is a child rights organization aiming for the protection and promotion of children's rights in the Netherlands and beyond. Defence for Children provides free individual legal assistance on child rights issues, performs research, campaigns, lobbies and advocates and provides capacity development of professionals working with and for children. Our thematic expertise includes poverty, migration, family law, education, the child justice system, gender and sexual exploitation. Defence for Children Netherlands is the Dutch section of Defence for Children International and member of the ECPAT International – network. In the Netherlands, Defence for Children and ECPAT are united in one organization.



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Every child has the right to grow up happy and carefree. That's why **Save the Children** does whatever it takes to improve their lives. Because every child should be able to make their mark on the world, and help build a better future. As the world's largest independent child's rights organisation, we give children a healthy start and the chance to learn. And we protect them from abuse, neglect and danger. How do we do that? With 25.000 local staff in around 120 countries that are fighting for children day in, day out. We help in emergencies, work on long-term and lasting improvements in communities and ensure that children's voices are heard. We are there where children need us. Even in the most difficult and remote places in the world. Every single day. Unconditionally.



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Terre des Hommes Netherlands prevents child exploitation, removes children from exploitative situations and ensures they can develop themselves in a safe environment, empowering them as agents of change.

Founded in 1965, Terre des Hommes Netherlands is a child rights organization active in 20+ countries and focusing on the most serious violations of children rights: the worst forms of child labour, child trafficking, sexual exploitation of children, child abuse and violations of Sexual and Reproductive Health and Rights. TdH-NL also offers humanitarian aid worldwide, focusing on immediate protection of children in emergencies.



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UNICEF is the UN organization mandated to protect the rights of every child, everywhere, especially the most disadvantaged, and is the only organization specifically named in the Convention on the Rights of the Child as a source of expert assistance and advice.

UNICEF works in the world's toughest places to reach the most disadvantaged children and adolescents – and to protect the rights of every child, everywhere. Across more than 190 countries and territories, we do whatever it takes to help children survive, thrive and fulfil their potential, from early childhood through adolescence.

The Dutch Committee for UNICEF (UNICEF the Netherlands) contributes to this by monitoring the children's rights situation in The Dutch Kingdom, through advocacy, children's rights education and participation, and providing technical assistance.



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The Dutch National Youth Council (NJR) defends the interests and opportunities of young people in the Netherlands. We do this by helping young people discover their strengths: what do you enjoy, and what are you good at? When you're aware of your strengths, you can do great things! Maybe you've already got big plans to make impact. To us, every young person with ideas for the future is a changemaker that we'd love to add to our network of changemakers. Because we're stronger together. With our changemakers we can change the world, such as by proving governments and schools what the young generation has in store.

Universal Periodic Review The Netherlands

Joint submission of the Dutch NGO Coalition for Children's Rights to the Human Rights Council

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