

KinderrechtenCollectief

Dutch NGO Coalition for Children's Rights

Universal Periodic Review of the Netherlands

Pre-sessions - 4th cycle

Monday 29 August 2022

Children's Rights in the Netherlands

- Acceptance of international norms and reservations
- Asylum-seeking, refugee and migrant children
- Protection against (sexual) exploitation and trafficking of children
- Children and youth in the criminal justice system

Situation in the Netherlands

Acceptance of international norms and reservations

Previous recommendations:

- The Netherlands received 14 recommendations concerning the third Optional Protocol on a Communications Procedure and the reservations to three articles of the UN CRC. The Netherlands took note of these recommendations.

New developments:

- The government is not intending to withdraw the reservation to art. 26.
- The third Optional Protocol on a Communications Procedure has not been ratified yet. The Council of State recently provided its analysis and recommendations to the government.

Recommendations:

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

Situation in the Netherlands

Asylum-seeking, refugee and migrant children

Previous recommendations:

- There were no previous recommendations in the former UPR on the best interests of the child in asylum and migration procedures. This is however an important consideration for an asylum procedure compliant with the UNCRC.

New developments:

- The government fails to organize sufficient, safe and child-friendly reception for asylum seeking children.
- Due to a lack of staff, there are big backlogs in asylum procedures, further prolonging the length of stay under circumstances that are not in the best interest of the child: living in mass emergency shelters, frequent relocations and a systemic lack of psychosocial support increases the risk of childhood trauma and developmental damage.
- Manifold relocations hinder children's access to education and healthcare.

Recommendations

Asylum-seeking, refugee and migrant children

- Incorporate the best interests of the child into immigration law by adding the proposed amendment (private member's bill, 2016) into the Aliens Act 2000.
- Prevent relocations and realize well-functioning, small-scale and permanent communal locations.

Situation in the Netherlands

(Sexual) exploitation and trafficking of children

Previous recommendations:

- Previous recommendations made by Panama, Morocco, Uruguay, Tunisia and Indonesia call for the continuation and strengthening of efforts to protect and rehabilitate child victims of sexual exploitation and trafficking. All were supported by the Netherlands.

New developments:

- The government programme “Combatting Human Trafficking Together”, continues, now including online and criminal exploitation. However, coordination and practical implementation of instruments to stop child exploitation lack behind. The visibility of child trafficking victims is decreasing and revictimization levels are high. Children often do not have access to appropriate support in time, and support depends on their municipality and residence status.

Recommendations

(Sexual) exploitation and trafficking of children

- Strengthen efforts to improve insights into child trafficking and exploitation, promote coordination and deploy the available (digital) instruments to end all forms of child trafficking and exploitation including transnational and online.
- Prioritise early provision of care and make specialised youth care accessible to all child victims of trafficking and exploitation regardless of their municipality or residence status.

Situation in the Netherlands

Children and youth in the criminal justice system

Previous recommendations:

- In the third UPR-cycle, the Netherlands received 3 recommendations from Zambia, Botswana and Egypt, related to juvenile justice. These were not supported.

New developments:

- Children can still be detained with adults and the age of criminal responsibility is still at 12 years.
- The State has confirmed its reservations to articles 37(c) and 40 of the UN Convention on the Rights of the Child in a letter to Parliament recently and does not intend to withdraw them. Thus, it is still possible that 16 and 17 year olds can be tried according to adult criminal law, and the right to a lawyer (free of charge) for minors can be restricted.
- In 2018, the state promised legislation about the testing and storage of DNA of convicted children, which has not yet been realized.

Recommendations

Children and youth in the criminal justice system

- Guarantee a child-oriented procedure in juvenile criminal law and ensure with permanent legislation that all minor suspects have a right to free legal aid.
- Ensure that in cases where detention is unavoidable, children are not detained together with adults, including at the police station and that they are detained in a child-friendly environment/child friendly holding facilities.
- Reconsider the routine practice of the testing and storage of DNA with respect to children convicted of certain specified offences and urge the state to finalize the promised legislation for children convicted to community service of 40 hours or less.