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**Committee on the Rights of the Child****Concluding observations on the combined fifth and sixth periodic reports of the Netherlands\*****I. Introduction**

1. The Committee considered the combined fifth and sixth periodic reports of the Netherlands<sup>1</sup> at its 2566th and 2568th meetings,<sup>2</sup> held on 1 and 2 February 2022, and adopted the present concluding observations at its 2682nd meeting, held on 11 February 2022.

2. The Committee welcomes the submission of the combined fifth and sixth periodic reports of the State party, under the simplified reporting procedure, which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held virtually with the high-level and multisectoral delegation of the State party.<sup>3</sup>

**II. Follow-up measures taken and progress achieved by the State party**

3. The Committee welcomes the various legislative, institutional and policy measures taken by the State party to implement the Convention, including the addition of sexual orientation and disability to the list of prohibited grounds of discrimination under Article 1 of the Constitution, the adoption of the Child Labour (Duty of Care) Act and the prohibition of corporal punishment in the home in Aruba, Bonaire, Saba and Sint Eustatius. The Committee notes with appreciation the ratification of the Convention on the Rights of Persons with Disabilities.

**III. Main areas of concern and recommendations**

4. The Committee reminds the State party of the indivisibility and interdependence of all the rights enshrined in the Convention and emphasizes the importance of all the recommendations contained in the present concluding observations. The Committee would like to draw the State party's attention to the recommendations concerning the following areas, in respect of which urgent measures must be taken: non-discrimination (para. 15), violence against children (para. 22), children with disabilities (para. 27), impact of climate

\* For adoption by the Committee at its eighty-ninth session (31 January–11 February 2022).

<sup>1</sup> CRC/C/NLD/5-6.

<sup>2</sup> See CRC/C/SR.2566 and CRC/C/SR.2568.

<sup>3</sup> Where not otherwise stated, the recommendations in each part of the present observations are addressed to the Government of the Kingdom of the Netherlands and to the governments of the constituent countries of the Netherlands, Aruba, Curaçao and Sint Maarten and the municipalities of Bonaire, Saba and Sint Eustatius.

change on the rights of the child (para. 32), asylum-seeking, refugee and migrant children (para. 37) and administration of child justice (para. 41).

5. **The Committee recommends that the State party ensure the realization of children’s rights in accordance with the Convention and the Optional Protocols thereto throughout the process of implementing the 2030 Agenda for Sustainable Development. It urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals as far as they concern children.**

## A. General measures of implementation (arts. 4, 42 and 44 (6))

### Reservations and declarations

6. **The Committee reiterates its previous recommendations of 1999, 2004, 2009 and 2015<sup>4</sup> and urges the State party to consider withdrawing its reservations to articles 26, 37 (c) and 40 and its interpretative declarations to articles 14, 22 and 38 of the Convention.**

### Legislation

7. **The Committee recommends that the State party develop child-rights impact assessment procedures for national and sub-national legislation and policies relevant to children.**

### Coordination

8. **Recalling its previous recommendations,<sup>5</sup> the Committee recommends that the State party:**

(a) **Provide the intercountry task force on children’s rights with a clear mandate and sufficient authority to coordinate all activities related to the implementation of the Convention at the cross-sectoral, national and municipal levels, and the implementation of the various action plans in the area of children’s rights;**

(b) **Ensure that the task force is provided with the human, technical and financial resources necessary to support the effective and equal implementation of the Convention across the constituent countries, including through a common set of goals and mechanism for monitoring implementation, and that it includes the participation of children and civil society.**

### Allocation of resources

9. **With reference to its general comment No. 19 (2016) on public budgeting for the realization of children’s rights, the Committee recommends that the State party incorporate a child rights-based approach into the State budgeting process and:**

(a) **Implement a tracking system for the allocation, use and monitoring of resources for children throughout all constituent countries, with a view to eliminating disparities and ensuring equitability, and assess how investments in all sectors serve the best interests of children;**

(b) **Ensure transparent and participatory budgeting processes at central, regional and local levels in which civil society, the public and children can participate effectively;**

(c) **Conduct independent and participatory impact assessments of its tax and financial policies to ensure that they do not contribute to tax abuse by national companies operating outside the State party that lead to a negative impact on the**

<sup>4</sup> CRC/C/NLD/CO/4, para. 7; CRC/C/NLD/CO/3, para. 10; CRC/C/15/Add. 227, para. 11; and CRC/C/15/Add.114, para. 7.

<sup>5</sup> CRC/C/NLD/CO/4, para. 11.

**availability of resources for the realization of children's rights in the countries in which they are operating.**

#### Data collection

10. The Committee notes the National Youth Monitor and the measures taken by Statistics Netherlands to improve its data collection system, but is concerned at the lack of a comprehensive and disaggregated data collection system that encompasses all areas of the Convention in all constituent countries. It recommends that the State party:

(a) Ensure that its data collection system covers both qualitative and quantitative indicators; encompasses all areas of the Convention; is disaggregated by age, sex, disability, geographic location, ethnic origin, nationality and socioeconomic background; and collects and analyses data by all relevant entities and municipalities, irrespective of the different methodologies used;

(b) **Improve the collection and analysis of data on discrimination against children, mental health, younger children, children in alternative care, child poverty, children in the justice system, children whose nationality is unknown, child labour, and violence against children, including sexual exploitation, abuse and trafficking;**

(c) Ensure that the data are shared among relevant ministries, professional groups and civil society, and used for the evaluation of policies and projects on children's rights, including youth care.

#### Independent monitoring

11. While welcoming the ratification of the law establishing the children's ombudsman in Curaçao and the establishment of a National Children's Rights Committee in Sint Maarten, the Committee recommends that the State party expeditiously establish an independent mechanism for monitoring and promoting children's rights in Aruba, and ensure that such mechanisms in all constituent countries are in full compliance with the Paris Principles and can receive, investigate and competently address complaints by children in a child-friendly manner.

#### Dissemination, awareness-raising and training

12. The Committee is **concerned about the low level of knowledge of the Convention among children** and recommends that the State party:

(a) Promote the active involvement of children in public outreach activities and continue its awareness-raising regarding children's rights among the public, including by disseminating child-friendly pedagogical material in the different languages of the State party;

(b) Ensure systematic training on children's rights and the Convention and the Optional Protocols thereto for all professionals working for and with children.

#### Children's rights and the business sector

13. The Committee notes the introduction of legislation requiring businesses to apply due diligence, and the efforts to revise the national action plan on business and human rights. However, it is concerned about reports of the negative impact of the business sector, including in oil extraction and soy production, on children's rights and the environment and the lack of legal accountability for businesses that have violated children's rights. Recalling its previous recommendations,<sup>6</sup> the Committee recommends that the State party:

(a) Continue to examine and adapt its legislative framework (civil, criminal and administrative) to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory, including

<sup>6</sup> CRC/C/NLD/CO/4, para. 23.

companies that deal with the extraction of oil or trade in palm oil or soy, in relation to international and national human rights, labour, environmental and other standards;

(b) Establish monitoring mechanisms for the investigation and redress of violations of children's rights, with a view to improving accountability and transparency;

(c) Strengthen its international cooperation against exploitation of children through multilateral, regional and bilateral arrangements for its prevention and elimination.

## **B. General principles (arts. 2–3, 6 and 12)**

### **Non-discrimination**

14. The Committee welcomes the establishment of a National Coordinator against Discrimination and Racism and the measures taken to draft a national plan to combat all forms of discrimination, but remains concerned 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.

15. Taking note of target 10.3 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Eliminate disparities between constituent countries and all municipalities, including Bonaire, Saba and Sint Eustatius, regarding children's access to youth services, health, education, social assistance, and support for child abuse and neglect;

(b) Ensure that all municipalities have a child-friendly anti-discrimination service where children can easily report cases of discrimination, and mechanisms to respond effectively and in a child-sensitive manner;

(c) Ensure the investigation of cases of discrimination against children, including through specialised units or investigators;

(d) Evaluate, with the participation of children and civil society, existing measures aimed at combating discrimination against children in disadvantaged situations, to assess their impact and revise measures accordingly;

(e) Ensure that children with disabilities, asylum-seeking and migrant children and children without a regular residence status have access to inclusive and quality education, including early childhood education, without discrimination;

(f) Address the overrepresentation of migrant children in special schools and the justice system, including through mandatory training on non-discrimination for the judiciary, law enforcement officials and teachers;

(g) Develop policies and awareness-raising measures aimed at addressing the root causes of de facto discrimination, with a view to eliminating stereotyping, prejudice and discrimination against, inter alia, children belonging to ethnic and religious minority groups (including Muslims, Jews and children of African descent), refugee, asylum-seeking, migrant and undocumented children, children with disabilities, lesbian, gay, bisexual, transgender and intersex children and children living in poverty.

### **Best interests of the child**

16. The Committee recommends that the State party:

(a) Ensure that the principle of the best interests of the child is consistently applied in programmes and legislative, administrative and judicial proceedings, including in relation to youth support, placement in guardianship or foster families, parental custody, education, and migration and asylum procedures, in all constituent countries;

(b) Strengthen measures to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration.

#### Respect for the views of the child

17. The Committee welcomes the efforts to promote child participation in the development of programmes affecting children, including in poverty reduction, but regrets that the age limit for children's involvement in many decision-making processes **remains at 12 years of age**. Recalling its previous recommendations,<sup>7</sup> the Committee recommends that the State party:

(a) Abolish any age limit on the right of children to express their views in all issues concerning them and ensure that all children, including those under 12 years of age, can express their opinion and be heard in all decisions affecting them, including in courts and civil proceedings;

(b) Continue to strengthen measures to promote the meaningful and empowered participation of all children, including children in disadvantaged situations, within the family, the community, schools and the realm of policymaking at the municipal and national levels, such as by developing toolkits for consulting children on national policy issues and ensuring that the outcomes of children's councils are systematically fed into public decision-making;

(c) Ensure that all relevant professionals, including teachers and youth care professionals, working with and for children, systematically receive appropriate training on the right of the child to be heard and have his or her opinion taken into account and in accordance with the child's age and maturity.

### C. Civil rights and freedoms (arts. 7–8 and 13–17)

#### Birth registration and nationality

18. The Committee is concerned that conditions under which stateless children may apply for Dutch nationality under the present Nationality Act, which among others requires three years of legal residency, are very strict. Recalling its previous recommendations,<sup>8</sup> the Committee recommends that the State party:

(a) Ensure that all children born in Aruba and Curaçao, including those with an irregular residence status, have access to birth registration and/or identity cards, and strengthen legal pathways to acquire a nationality;

(b) Guarantee all stateless children born or present within the territory of the State party the right to acquire nationality irrespective of residency status;

(c) Implement measures for ensuring that children with an "unknown" nationality, a status that leaves them unable to be registered as stateless and obtain international protection, do not remain in such a status for a prolonged period of time;

(d) Ensure the access to education, health, and social services for stateless children and children with an "unknown" nationality;

(e) Ensure that no child, including those between 16 and 17 years of age, is deprived of his or her nationality for actions that are considered to constitute a threat to national security, and also consider children's best interests when such withdrawals of nationality are imposed on parents.

#### Right to privacy and access to appropriate information

19. **While welcoming the various efforts undertaken by the State party to protect the rights of children in the context of digital media, and with reference to its general**

<sup>7</sup> CRC/C/NLD/CO/4, para. 31.

<sup>8</sup> CRC/C/NLD/CO/4, para. 33.

**comment No. 25 (2021) on children's rights in relation to the digital environment, the Committee recommends that the State party:**

- (a) Further develop regulations and safeguarding policies to protect the rights and safety of children in the digital environment;
- (b) Ensure that laws on access to information and the digital environment respect children's right to privacy, protect children from harmful content and materials and online risks, and provide for effective mechanisms to prosecute perpetrators including in the context of extraterritorial jurisdiction.

#### The right to identity

20. The Committee notes that no newborns have been placed in "baby rooms" without information about their mother during the reporting period and recommends that the State party continue to ensure that the right to know one's origins of children left at hospitals is respected.

### D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

#### Violence against children

21. The Committee is concerned about the high prevalence of violence against children, including sexual exploitation and online violence, in the State party, and the lack of legislative measures to protect children from abuse, domestic violence and corporal punishment in Bonaire, Saba and Sint Eustatius.

22. Taking note of targets 5.2, 16.1 and 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:

- (a) Ensure the effective investigation and intervention in all cases of violence against children, including neglect and sexual abuse, in and outside the home, and in the digital environment, especially cases involving sexual exploitation, cyberaggression and grooming;
- (b) Take legislative and administrative measures to set up a child protection infrastructure in Bonaire, Saba and Sint Eustatius;
- (c) Ensure the availability of legal support and child-friendly and confidential complaint mechanisms in residential care, mental health institutions, foster care systems and child protection services, and ensure that cases are promptly addressed;
- (d) Strengthen measures for ensuring that children who are victims or witnesses of violence have prompt access to child-friendly and multisectoral remedies and comprehensive support, including forensic interviews and psychological therapy by ensuring that the multidisciplinary (MDA++) approach is child-centred through its methodology with the aim of preventing the secondary victimization of child victims;
- (e) Strengthen efforts to train professionals concerned to identify and adequately respond to cases of violence and child abuse in accordance with the Mandatory Reporting Code (Domestic Violence and Child Abuse) and other relevant protocols, while simplifying such protocols to reduce the administrative burden on professionals;
- (f) Develop initiatives aimed at protecting children with disabilities and transgender and gender-diverse children from all forms of violence, including physical and mental abuse, maltreatment and sexual exploitation;
- (g) Ensure the explicit prohibition of corporal punishment by law in alternative care settings, day care and schools in Bonaire, Saba and Sint Eustatius, and strengthen awareness-raising campaigns aimed at promoting positive, non-violent and participatory forms of child-rearing and discipline and underscoring the adverse consequences of corporal punishment;

(h) Enhance access to treatment programmes for children with sexually inappropriate behaviour, including children who may have committed sexual offences, and ensure that such children receive appropriate therapeutic attention and benefit from child protection measures.

#### Harmful practices

23. The Committee recommends that the State party:

(a) Prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent and provide reparations for children who received unnecessary treatment;

(b) Provide adequate social, medical and psychological services, counselling and support to intersex children and their families;

(c) Prohibit the use of isolation and restraint as disciplinary measures in mental health institutions and alternative care settings.

### E. Family environment and alternative care (arts. 5, 9–11, 18 (1)–(2), 20–21, 25 and 27 (4))

#### Family environment

24. Noting with deep concern the high number of children who were separated from their families due to economic reasons, including in the context of the childcare benefits affair, the Committee recommends that the State party:

(a) Prohibit the separation of children from their families and their placement in alternative care on the basis of only the economic situation of those families, including parents staying in homeless shelters, and ensure that children staying in such shelters receive comprehensive support;

(b) Consider abolishing the self-reliance criteria under the Social Support Act or develop a policy aimed at supporting families who are homeless for economic reasons;

(c) Ensure that all children affected by the childcare benefits affair receive compensation and psychosocial support and that measures aimed at the rehabilitation of affected families take a child rights-based approach.

#### Children deprived of a family environment

25. The Committee welcomes the State party's efforts to reduce youth care in closed institutions and involuntary out-of-home placements, and inform policies on foster care breakdown through research, but is concerned about the large number of emergency out-of-home placements, and frequent transfers of children in residential youth care facilities. The Committee recommends that the State party:

(a) Further strengthen its system of foster care and substitute family homes, with a view to phasing out the institutionalization of children, especially young children; and allocate adequate funds towards families to promote and support care in a family environment;

(b) Provide temporary, safe care alternatives and establish a system of foster care in Aruba, Curaçao and Sint Maarten for children who cannot stay with their families;

(c) Undertake more focussed efforts to reduce the number of emergency out-of-home placements;

(d) Prevent frequent transfers of children in alternative care settings and monitor the quality of care therein, including by improving availability of the national Inspectorate for Healthcare and Youth, and confidants;



- (e) Strengthen measures, including through increased funding, aimed at providing education, skills and opportunities for independent living for children leaving alternative care;
- (f) Ensure that children in youth care and mental health institutions have the right to appeal decisions made about them;
- (g) Ensure the regular monitoring and evaluation of the quality of care in alternative care centres in Bonaire, Saba and Sint Eustatius;
- (h) Further strengthen institutional measures such as the roles of Family Supervision Agencies in preventing the need for alternative care, as well as improving the quality of alternative care in Aruba and Curaçao;
- (i) **Implement the recommendations of the 2018 evaluation of the Youth Act, including with regard to care for children in marginalized situations and the allocation of financial resources for children deprived of a family environment.**

## F. Children with disabilities (art. 23)

26. The Committee is concerned about the **increase in the number of children with disabilities attending special schools**, lack of access to early education and the number of exemptions granted to children with disabilities under the Compulsory Education Act.

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

- (a) **Ensure that all children with disabilities, including those with intellectual and psychosocial disabilities, have access to and benefit from inclusive education at all levels, including in Bonaire, Saba and Sint Eustatius;**
- (b) Strengthen measures for ensuring inclusive education, including by adapting curricula and training and assigning specialized teachers and professionals in integrated classes so that children with learning difficulties receive individual support and due attention;
- (c) Expediently amend the Compulsory Education Act to limit the grounds for exemption of children with disabilities from compulsory education on physical or psychological grounds, and allocate sufficient human, technical and financial resources for its implementation, with a view to ensuring that exemptions are not used disproportionately to deny a child's right to education;
- (d) Strengthen support to children with disabilities for their social integration and individual development and ensure that families of such children know how to seek the necessary support, including by ensuring that personal health budgets are sufficient to cover the costs of quality care and that all municipalities implement the comprehensive assessment framework aimed at ensuring that children with disabilities receive prompt and early support.

## G. Basic health and welfare (arts. 6, 18 (3), 24, 26, 27 (1)–(3) and 33)

### Health and health services

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

- (a) Ensure that measures aimed at preventing and reducing infant mortality include the provision of quality pre- and postnatal care for pregnant women in vulnerable situations, **including in asylum centres**, and establish a national mechanism for early identification of at-risk groups of pregnant women;
- (b) Continue efforts to address **overweight and obesity** in children and actions to promote a healthy lifestyle, including by regulating the marketing of unhealthy foods to children, raising public awareness of nutrition issues and ensuring that overweight and obese children receive the necessary support under the Young People at a Healthy Weight programme;



(c) Promote breastfeeding and monitor the implementation of the International Code of Marketing of Breast-milk Substitutes and the baby-friendly hospital initiative.

#### Mental health

29. The Committee commends the State party for its efforts to promote awareness on mental health issues and combat related stigma, but is concerned about high rates of depression and self-harm, including attempted and realized suicides, and **long waiting lists for children seeking mental health services**. Taking note of target 3.4 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) **Strengthen mental-health services and programmes for children**, including by allocating sufficient financial, technical and human resources for preventive measures under the youth care programme, developing therapeutic community-based mental-health services, and ensuring that the number of qualified medical professionals, including child psychologists and psychiatrists, is sufficient to meet children's mental-health needs in a timely manner;

(b) Invest in addressing the underlying causes of suicide and poor mental health among children and ensure that children's perspectives are included in the development of response services available for children.

#### Adolescent health

30. Recalling its general comment No. 20 (2016) on the implementation of the rights of the child during adolescence and its previous recommendations,<sup>9</sup> the Committee recommends that the State party:

(a) Adopt a comprehensive and effective gender-sensitive sexual and reproductive health policy for adolescents;

(b) Integrate sexual and reproductive health education into all levels of education, and ensure that it includes age-appropriate education on gender equality, sexual diversity, sexual and reproductive health rights, responsible parenthood and sexual behaviour and violence prevention;

(c) Strengthen efforts to prevent and address the incidence of drug, alcohol and tobacco use by adolescents, and ensure the early identification and adequate referral of adolescents requiring treatment;

(d) Develop a national strategy for preventing and addressing gaming disorders, and ensure that adolescents with gaming disorders or other forms of online addiction receive the necessary help and support.

#### **Impact of climate change on the rights of the child**

31. The Committee welcomes the National Clean Air Agreement in 2020 but is nonetheless concerned about the negative impact of climate change on the rights of the child and the high prevalence of pollution-induced asthma.

32. Drawing attention to targets 13.2 and 13.3 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) **Reduce greenhouse gas emissions** in line with the State party's international commitments, and ensure that national policies and programmes on environmental protection and climate change are implemented in accordance with the principles of the Convention and taking into account children's needs and views;

(b) Take effective measures for the mitigation and adaptation to the harmful effects of climate change, including the heightened risks of the rise in sea levels and stronger hurricanes to the islands in the Caribbean;

<sup>9</sup> CRC/C/NLD/CO/4, para. 47.

(c) Conduct an assessment of policies and practices related to the aviation, transport and other relevant sectors and the impacts of the resulting atmosphere pollution and greenhouse gas emissions on children's rights as a basis for designing a well-resourced strategy to remedy the situation;

(d) Promote children's awareness, with the active participation of schools, on climate change and environmental health, including on relevant air quality and climate legislation and their right to the enjoyment of the highest attainable standard of health.

#### Standard of living

33. The Committee welcomes the measures taken to combat child poverty but is concerned that the overall number of children living in poverty remains high. Taking note of target 1.2 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Further strengthen its policies to ensure that all children in all constituent countries have an adequate standard of living, including by increasing social benefits to low-income families with children, simplifying application procedures for financial support, strengthening the system of family benefits across all departments, developing measures to prevent homelessness and increasing budget allocations for the benefits system in Aruba, Curaçao and Sint Maarten;

(b) Strengthen measures to provide families in need with adequate and long-term social housing and other support measures, with a view to reducing homelessness and guaranteeing children's access to adequate housing;

(c) Ensure an integrated and development-oriented approach to child poverty with a particular focus on children from disadvantaged families, including children in single-parent households, children in welfare-dependent families, migrant children, children without a regular residence status and children living in shelters;

(d) Assess the impact of measures to combat poverty, including any negative effects on the enjoyment of other rights, with a view to ensuring that such measures are comprehensive and take a child rights-based approach.

## H. Education, leisure and cultural activities (arts. 28–31)

#### Education, including vocational training and guidance

34. Recalling its previous recommendations,<sup>10</sup> the Committee draws attention to targets 4.2, 4.5 and 4.a of the Sustainable Development Goals and recommends that the State party:

(a) Continue its efforts to reduce and prevent school dropout and exclusions from school, based on an analysis of the root causes;

(b) Finalize and adopt the draft bill on homeschooling and establish a monitoring mechanism aimed at ensuring minimum quality standards for homeschooling;

(c) Allocate sufficient human, technical and financial resources for the implementation of the Safety at School Act and ensure that measures aimed at combating bullying in schools, including online bullying, encompass prevention, early detection mechanisms, the empowerment of children and professionals, intervention protocols, awareness-raising on its harmful effects, and harmonized guidelines for the collection of case-related data.

#### Human rights education

35. The Committee regrets the omission of an explicit reference to children's rights in the legislation on citizenship education in primary and secondary education

<sup>10</sup> CRC/C/NLD/CO/4, para. 51.

curricula. Drawing attention to target 4.7 of the Sustainable Development Goals, the Committee recommends that the State party strengthen efforts to promote the development of a culture of human rights in the education system and:

(a) **Strengthen the teaching of children's rights and the Convention within the mandatory school curricula in all educational settings, including in residential institutions, and in the training of teachers and education professionals, taking into account the framework of the World Programme for Human Rights Education;**

(b) **Develop human rights education materials that foster respect for and appreciation of diversity, and ensure that teachers receive the necessary support to teach children's rights in schools.**

## **I. Special protection measures (arts. 22, 30, 32–33, 35–36, 37 (b)–(d) and 38–40)**

### **Asylum-seeking, refugee and migrant children**

36. The Committee is concerned about:

(a) The impact of recent amendments to the Dutch Aliens Decree on asylum-seeking and refugee children, including the merger of the registration interview and the first interview;

(b) Reports that cases of asylum-seeking children over 15 years of age are sometimes assessed by employing the same criteria used for adults;

(c) The lack of legislation protecting the rights of asylum-seeking children, the lack of publicly available information on asylum-seeking procedures and the barriers faced by such children in accessing identification papers and essential services, including education, in Aruba, Curaçao and Sint Maarten;

(d) Reports of the deportation of asylum-seeking children without review of their cases and the detention of such children or **the separation of children from parents who are detained for immigration-related purposes in Aruba and Curaçao.**

37. **With reference to the joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their families / No. 22 and No. 23 of the Committee on the Rights of the Child (2017) on the human rights of children in the context of international migration, the Committee recommends that the State party:**

(a) **Ensure child-friendly asylum procedures for all children under the age of 18 years, including by: (i) ensuring the early identification of their vulnerabilities and child-specific forms of persecution and that they are interviewed in a child-friendly manner; (ii) ensuring that all asylum claims, including those submitted by children over 15 years of age, are reviewed in a child-sensitive manner and with due consideration for the age at which they fled their country of origin; and (iii) providing them with age-appropriate information and legal advice about their rights, asylum procedures, available services and requirements for documentation, particularly in view of recent amendments to the Dutch Aliens Decree;**

(b) **Ensure that the best interests of asylum-seeking children are given primary consideration in all asylum processes and that their views are heard, taken into account and given due weight;**

(c) **Ensure that the rights of asylum-seeking and refugee children in all constituent countries are guaranteed under legislation, including by: (i) ensuring that such children are registered and issued with legal identification documents; (ii) adopting legislation governing asylum procedures and preventing the *refoulement* of such children; (iii) ensuring that such children have access to justice mechanisms and remedies; and (iv) extending territorial application of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol to Curaçao and Sint Maarten;**

(d) Prohibit and prevent the separation of asylum-seeking and migrant children from their parents and the detention and/or deportation of children across all constituent countries, including Aruba and Curaçao, due to their or their parents' migration status;

(e) Remove the barriers faced by asylum-seeking and refugee children in Aruba and Curaçao in accessing education, health, housing and other essential services, with a view to ensuring that all such children have access to all basic services without discrimination;

(f) Prioritize the immediate transfer of asylum-seeking children and their families from emergency reception facilities and invest the necessary resources to improve and expand reception facilities that are child-friendly, with a view to preventing overcrowding and frequent transfers of children between different facilities;

(g) Adopt permanent and sustainable resettlement options for asylum-seeking children and their families in Aruba, Curaçao and Sint Maarten to ensure that they are given proper legal status and access to employment and other opportunities.

#### Unaccompanied children

38. The Committee welcomes the measures taken to facilitate family reunification for unaccompanied and separated children and provide them with support in small-scale reception facilities or family-based care, but is concerned about the strict criteria for approving family reunification of children whose parents cannot be traced. **The Committee is further concerned about children who disappear from such facilities.** The Committee recommends that the State party:

(a) Review its system of family reunification involving unaccompanied children, particularly for those living independently and those who do not have parents or whose parents cannot be traced, with a view to broadening the criteria for emotional ties with other family members or legal guardians;

(b) Strengthen measures aimed at ensuring that decisions on applications for family reunification are taken promptly and within the maximum time permitted under legislation, including by allocating sufficient financial, human and technical resources for the asylum system;

(c) Appoint a guardian or adviser for unaccompanied children in all constituent countries;

(d) Provide unaccompanied children with durable solutions, including residence status, foster care and support for their social integration;

(e) Continue to investigate reports of disappearance of children from reception facilities and take measures to prevent such disappearances.

#### Trafficking

39. The Committee welcomes the measures taken to address trafficking but remains concerned that residence permits are rarely issued to child victims of trafficking who do not cooperate in a criminal investigation, despite their eligibility under recent policy changes, due to a lack of related criminal investigations. The Committee recommends that the State party:

(a) Issue special residency permits for all alleged child victims of trafficking, irrespective of related criminal investigations, and ensure sufficient human, technical and financial resources and coordination among authorities working on the protection of child victims of trafficking at all levels;

(b) Develop a mechanism for monitoring and evaluating the implementation of the "Together against human trafficking" programme, based on a clear set of measurable outcomes and indicators;

(c) **Ensure that all municipalities have developed strategies or action plans for preventing and combating trafficking of children, including for online sexual exploitation and their criminal exploitation by “lover boys”.**

#### **Administration of child justice**

40. The Committee welcomes the measures taken to ensure the applicability of the child justice system in all constituent countries and to promote alternative measures to detention, including through small-scale facilities that allow children to stay close to home. However, it is concerned that:

- (a) The age of criminal responsibility is 12 years;
- (b) The Juvenile Courts can, in specific situations, impose sanctions for adults to children who had reached the age of 16 at the time the offence was committed;
- (c) Children are not routinely provided with legal representation for certain “non-serious offences”;
- (d) A significant proportion of children in justice institutions are in pretrial detention, including in police cells, and that children in Curaçao are sometimes detained with adults;
- (e) Children in youth care facilities, including residential youth care and mental health care institutions, are sometimes separated from other children without proper records being kept;
- (f) There is limited information on prevention measures aimed at addressing the root causes of children’s involvement in the child justice system, particularly in Curaçao;
- (g) The law still permits DNA samples to be taken and stored from children who have been sentenced to prison, detention in a youth custody centre or community service of 40 hours or more;
- (h) Some children with specified offences, including those who were convicted for a sexual crime, will not be able to obtain a certificate of conduct.

41. **With reference to its general comment No. 24 (2019) on children’s rights in the child justice system, the Committee recommends that the State party:**

- (a) **Consider raising the age of criminal responsibility to at least 14 years;**
- (b) **Consider a review of the law to ensure the application of its child justice system to all children below the age of 18 years;**
- (c) **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;**
- (d) **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, and that it is regularly reviewed with a view to its withdrawal;**
- (e) **Ensure 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;**
- (f) **Ensure 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;**
- (g) **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;**
- (h) **Reconsider the routine practice of the testing and storage of DNA in respect of children convicted of certain specified offences;**

(i) Review 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.

## **J. Follow-up to the Committee's previous concluding observations and recommendations concerning the implementation of the Optional Protocols to the Convention**

### **Optional Protocol on the sale of children, child prostitution and child pornography**

42. The Committee is **concerned at the large quantity of online sexual abuse material hosted on servers in the State party.** With reference to its 2019 guidelines on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography,<sup>11</sup> and recalling its previous recommendations,<sup>12</sup> the Committee recommends that the State party:

(a) Ensure that all forms of the sale of children are criminalized, in line with articles 2 and 3 of the Optional Protocol, particularly with regard to the sale of children under surrogacy arrangements and improperly inducing consent for adoption;

(b) Prevent and address the online sale for the purpose of sexual exploitation and abuse of children, including by: (i) ensuring that national legal and policy frameworks adequately cover all manifestations of the sale and sexual exploitation of children committed or facilitated through information and communication technologies (ICT); (ii) conducting online-specific analyses, research and monitoring to better understand online offences and develop appropriate responses; (iii) ensuring that Internet service providers control, block and promptly remove online sexual abuse material; and (iv) integrating specific components on online offences, as well as online tools to facilitate victim identification techniques and rescue operations, into the mandatory training of law enforcement officials, lawyers, the judiciary and other relevant professionals.

### **Optional Protocol on the involvement of children in armed conflict**

43. Recalling its previous recommendations,<sup>13</sup> the Committee recommends that the State party:

(a) Raise the minimum age of voluntary recruitment into the armed forces to 18 years, and explicitly criminalize the recruitment or use of children under the age of 18 years in hostilities by non-State armed groups;

(b) Establish in law extraterritorial jurisdiction over crimes under the Optional Protocol without the criterion of double criminality;

(c) Extend the protection provided under the Convention relating to the Status of Refugees to all children who are 15 to 17 years of age, irrespective of the crimes committed;

(d) Establish a mechanism for the early identification of children who may have been involved in armed conflicts abroad upon entering the State party and provide them with support for their social and psychological recovery and their reintegration into society.

<sup>11</sup> CRC/C/156.

<sup>12</sup> CRC/C/NLD/CO/4, para. 62. See also CRC/C/OPSC/NLD/CO/1.

<sup>13</sup> CRC/C/OPAC/NLD/CO/1.

## K. Ratification of the Optional Protocol on a communications procedure

44. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure.

## L. Ratification of international human rights instruments

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

## M. Cooperation with regional bodies

46. The Committee recommends that the State party continue to cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.

# IV. Implementation and reporting

## A. Follow-up and dissemination

47. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented and that a child-friendly version is disseminated to, and made widely accessible for, children, including the most disadvantaged ones. The Committee also recommends that the combined fifth and sixth periodic reports and the present concluding observations be made widely available in the languages of the country.

## B. National mechanism for reporting and follow-up

48. The Committee recommends that the State party establish a standing government structure to coordinate and prepare reports to and engage with international and regional human rights mechanisms, and to coordinate and track national follow-up to, and implementation of, treaty obligations and the recommendations and decisions emanating from such mechanisms. The Committee emphasizes that such a structure should be adequately and continuously supported by dedicated staff and should have the capacity to consult systematically with the national human rights institutions and civil society.

## C. Next report

49. The Committee invites the State party to submit its seventh periodic report by 6 March 2027 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014<sup>14</sup> and should not exceed 21,200 words.<sup>15</sup> In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

<sup>14</sup> CRC/C/58/Rev.3.

<sup>15</sup> General Assembly resolution 68/268, para. 16.



50. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents<sup>16</sup> and paragraph 16 of General Assembly resolution 68/268.

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<sup>16</sup> HRI/GEN/2/Rev.6, chap. I.