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LANZAROTE CONVENTION

Council of Europe Convention on the protection of children
against sexual exploitation and sexual abuse

Replies to the general overview questionnaire

NETHERLANDS

Replies registered by the Secretariat on 24 March 2014

Annex to question 3.a. registered on 7 April 2014

This reply to the questionnaire has been written under the auspices of the Dutch Ministry of Security and Justice, Law Enforcement Department. Before submitting the text to the “Lanzarote Committee” this text has been sent to the Dutch National Police, the National Prosecution’s office, and the Ministry of Health, Welfare and Sport. Also the departments within the Ministry Of Security and Justice responsible for Legislation and for Youth and Sanctions were involved.

In April 2013 the Ministry of Security and Justice sent out an answer to the EU Commission, DG HOME, on the questionnaire regarding the Global Coalition against Child Sexual Abuse. In October 2013 the Ministry of Security and Justice sent out the Fourth Periodic Report of the Kingdom of the Netherlands concerning the implementation of the international convention on the rights of children (October 2006 – December 2012). This report is addressed to the UN Children’s Rights Committee, based in Geneva, Switzerland.

The answers in this questionnaire draw heavily on these aforementioned documents.

GENERAL FRAMEWORK

Question 1: Definition of “child”

- a. Does the notion of “child” under your internal law correspond to that set out in **Article 3, letter (a)**, i.e. “any person under the age of 18 years”?

Yes

- b. What legislative or other measures have been taken to ensure that when the age of a victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance provided for children are accorded to him or her in accordance with **Article 11, para. 2**?

Child pornography is punishable by Dutch Law. The law penalizes the person who distributes, offers, openly displays, produces, imports, forwards, exports, acquires, has in his possession or gains access by means of an automated work or by making use of a communication service, an image – or a data carrier containing an image – of a sexual act, in which someone who evidently has not reached the age of eighteen is involved or appears to be involved. Age is not an objective criterion. Also people who seem to be younger than 18 years, may fall within the description of the law.

- c. Please state whether the age for legal sexual activities is below 18 years of age and if so, please specify the age set out in internal law.

Dutch law does not use the term sexual abuse as such. The law uses the terms “indecent behaviour”. This term does not equal the more neutral term “sexual acts”. Indecent behaviour is understood as behaviour contrary to the general accepted social and ethical standards. This means that the understanding of indecent behaviour evolves over time as it is subject to the prevailing sexual morality. As a consequence sexual relations with a minor are not punishable if the sexual relationship is voluntary and according to normal sexual behaviour of peers of the minor and thus in accordance with the generally accepted sexual morality. Dutch legislation stipulates that minors who are at least 16 years of age are to be seen as “sexual adults”. Voluntary sexual relations with a minor over 16 are as a rule not punishable. Voluntary sexual relations with minors under 16 are punishable, when the sexual relations entail indecent behaviour.

Question 2: Non-discrimination

Is discrimination, on grounds such as the ones mentioned in the indicative list in **Article 2**, prohibited in the implementation of the Convention, in particular in the enjoyment of the rights guaranteed by it? If so, please specify. If not, please justify.

The Dutch constitution prohibits discrimination. Article 1 stipulates that every person in the Netherlands is entitled to equal treatment.

Question 3: Overview of the implementation

Please indicate (without entering into details):

- a. the main legislative or other measures to ensure that children are protected against sexual exploitation and sexual abuse in accordance with the Convention;

The Dutch Criminal Code provides for a specific chapter regarding the protection of morals and the protection of persons (including children) against sexual exploitation and sexual abuse. This chapter includes specific provisions that regulate the offences relevant in respect of this questionnaire (see annex).

- b. whether your country has adopted a national strategy and/or Action Plan to combat sexual exploitation and sexual abuse of children. If so, please specify the main fields of action and the body/bodies responsible for its/their implementation;

At the end of 2011, the Ministry of Health, Welfare and Sport and the Ministry of Security and Justice drew up a new action plan to tackle child abuse, which focuses on preventing, terminating and providing after-care for victims of child abuse and/of child pornography as a form of sexual violence. This action plan is designed for a four year period and is named "Kinderen Veilig" (Kamerstukken II 2011/12, 31 015, nr. 69). Prevention of sexual abuse of children as well a law enforcement approach and protection of victims are a part of this national action plan. The plan is a joint effort of the ministries of Security and Justice and of Health, Welfare and Sport. It addresses on the one hand law enforcement agencies such as the police and the prosecution's office and on the other hand provincial and municipal agencies on the preventive side, such as the Youth and Family Centres ("Bureau voor Jeugdzorg").

A Task Force "child abuse / sexual abuse" is installed to drive on the Action Plan and to oversee a concrete implementation. The Task Force is composed of persons from municipal agencies, health care organizations, police and public prosecution and is chaired by the mayor of Amsterdam. Priorities of the Task Force are enhancement of awareness and the improvement of skills and knowledge among professionals. Other priorities include the dissemination and use of information on abuse, among which referrals and declarations on abuse in order to institute those actions that limit the possibilities for people to abuse children. Next to this attention is given to the enhancement of a law enforcement approach, the care and protection of victims of child (sexual) abuse and the accompaniment of suspects and convicted persons in order to avoid recidivism.

- c. whether your country has any guidelines to ensure a child-friendly implementation of the laws, measures and strategies referred to in letters (a) and (b) above. If so, please specify. With regard to judicial proceedings, please specify whether the Council of Europe Guidelines on Child-friendly Justice were taken as inspiration for your guidelines.

With regard to judicial proceedings the Dutch Prosecution's Service issued a guideline on the investigation and prosecution of child sexual abuse, in which instructions are given on a child friendly implementation of the measures, such as the response to referrals or reports by victims as well as the child friendly interrogation in a specific environment by specially trained police personnel.

Dutch experiences were brought to attention of the COE during the negotiations on the Lanzarote Treaty.

Question 4: Child participation

- a. Please indicate what steps have been taken to encourage the participation of children, according to their evolving capacity, in the development and the implementation of state policies, programmes or other initiatives concerning the fight against sexual exploitation and sexual abuse of children (**Article 9, para. 1**);

In general the participation of youth is encouraged through a Youth Council installed by the government. The National Youth Council (NJR) is an umbrella organisation to which some 30 youth organisations are affiliated, and receives core funding from the Ministry of Health, Welfare and Sport to give young people a voice at national level and to ensure more youth participation at local level. All the Council's activities are conducted as far as possible by and for young people. NJR focuses mainly on young people aged 12 and over. Every spring and autumn the NJR holds talks with the government member responsible for youth policy. Civil servants also hold regular consultations with and seek the advice of the NJR. Other example of the NJR's activities are the organization of the annual National Youth Debate in the House of Representatives between young people and politicians and the awarding of a prize for the municipality that has achieved most success in promoting youth participation and has the most positive youth policy. Such a policy focuses on encouraging, improving and strengthening opportunities in the local community that provide the optimum conditions for young people to develop, without regarding them as a problem.

- b. In particular, please indicate whether, and if so, how child victim's views, needs and concerns have been taken into account in determining the legislative or other measures to assist victims (**Article 14, para. 1**).

In the Netherlands we have a Youth Taskforce Child Abuse. The Youth Taskforce Child Abuse is a group of young people between 15 and 26 years old who have experience with child abuse in different kind of ways. They spoke with abused children who gave them advice on how to stop child abuse. They also did their own research about the best ways to prevent child abuse. With the outcomes of that study, the advices they got from abused children and their own experience they started their work. The Youth Taskforce Child Abuse concluded that professionals and others talk a lot about the children but in fact never really listened to what children themselves had to say. Abused children often have the feeling that nobody listens to them and that their opinion isn't important enough. Children also want the same social worker, more alone time with their social worker and want to talk with professionals and social worker in a place where they feel more comfortable and without presence of their parents. Another outcome of the research of the Youth Taskforce Child Abuse was that children feel the most safe talking about abuse in school to friends or teachers. The Youth Taskforce Child Abuse is now really busy trying to get more attention for child abuse on schools. They have spoken with government officials of the Ministry Of Security and Justice, the Ministry of Health, Welfare and Sport and the Ministry of Education, Culture and Science about how to get more attention for child abuse on schools. They also are going to have a meeting with the Minister of Security and Justice, the State Secretary for Health, Welfare and Sport and the Minister and the State Secretary of Education, Culture and Science about this subject. The Ministry of Security and Justice and the Ministry of Health, Welfare and Sport have promised the Youth Taskforce Child Abuse to involve them in their projects concerning child abuse.

Question 5: Specialised bodies/mechanisms

- a. Please indicate the independent institution(s) (national or local) in charge of promoting and protecting the rights of the child. Please specify its/their responsibilities and indicate how resources are secured for it/them (**Article 10, para. 2, letter (a)**)

For the new action plan on child abuse and neglect for 2012 to 2016, The State Secretary for Health, Welfare and Sport and the Minister of Security and Justice established a special Task Force in 2012 (reference is made to answer 3b). Its ambassadors monitor the implementation of the action plan with a critical eye, keep certain themes high on the agenda and encourage new promising initiatives.

In 2009 the mandate of the National Rapporteur on Trafficking in Human Beings was extended to include child pornography. The first report on the subject was published in October 2011 and highlighted both current efforts to protect children from sexual violence and areas for improvement. It reported, for example, that the production of child pornography is almost always linked directly to sexual violence against children. The core message was: 'Children have a right to protection against all forms of sexual violence. Efforts to tackle child pornography must be part of an integrated strategy for dealing with sexual violence against children. Cohesion, coordination and monitoring are all essential elements in this respect.' In accordance with the recommendations of the National Rapporteur on Trafficking in Human Beings, the Rapporteur's responsibility regarding child pornography has been extended to the area of sexual violence against children, including child pornography (National Rapporteur on trafficking of human beings and on sexual violence against children Act, Bulletin of Acts and Decrees 2013, no. 444). A second report, which will report on the broader task of the National Rapporteur will be published this spring (March/April 2014).

Since 1 April 2011, the Netherlands has had a Children's Ombudsman. This is a new, independent, national institution set up to address the observance of the rights of children and young people (up to 18 years of age). It was established in accordance with the Paris Principles, within the organizational structure of the National Ombudsman (Children's Ombudsman Act, Bulletin of Acts and Decrees 2010, no. 716). The House of Representatives appointed Mr Marc Dullaert as the Netherlands' first Children's Ombudsman on 1 April 2011. The Children's Ombudsman advises Parliament and government authorities, and is also responsible for raising awareness of children's rights among adults, children and young people. The field of the Children's Ombudsman is government in general, but it also includes organizations that are active in youth care, education, child care and health care.

The Youth Monitor was set up to inform policymakers, researchers, and other interested parties about the situation of the country's young people. It contains indicators and lists publications about young people aged up to 25 across the entire spectrum of youth-related issues. Statistics Netherlands devised this Monitor for VWS. The website of the Youth Monitor has been online since the end of 2007. This website presents indicators and publications relating to young people aged up to 25. It distinguishes a range of subject areas: youth and families, health and welfare, education, employment, and security and justice. The Monitor provides information compiled at both regional and national level.

Municipalities are playing an ever increasing important role in youth policy. Youth and Family Centers (CJGs) were set up in the vast majority of Dutch municipalities in the reporting period. The support provided by these centers is aimed as much as possible at consolidating children's regular upbringing and enhancing the strengths and autonomy of children and their parents. CJGs are easily accessible and identifiable places, to which

children, young people and their parents can apply for information, advice and support on matters relating to growing up and upbringing. Their key objectives are to give parents timely advice and support (prevention), both in the immediate social environment and by improving cooperation between different agencies. CJGs bring together, under one roof, a range of tasks relating to preventive health care, support in children's upbringing, and help and guidance for families. In the new youth system, they serve as 'front office' for all youth care. CJG's comprise of well-trained professionals who are able to respond immediately to most requests for help from young people and parents, if necessary after consulting others working within the Centre or elsewhere. If more specialized help is needed, the Centre can arrange for it. CJG staff are also alert to signs of possible child abuse, and can provide help or report their observations so that the matter can be investigated. CJGs collaborate closely with schools in pupil support and advisory terms (ZATs) to improve care together with and at schools.

Next to this Dutch Youth Care also includes some independent bodies like the Child Care and Protection Board (Raad voor de kindbescherming) who take up their respective obligations in youth care.

The ministries for Health, Welfare and Sport and of Security and Justice monitor and evaluate at the moment six regional project in which a multidisciplinary approach to child abuse is administered. In the course of 2014 the success and fail factors will be known and decisions will be prepared to introduce a broader and more national implementation. Local governing bodies will be included in this process.

- b. Which legislative or other measures have been taken to set up or designate mechanisms for data collection or focal points, at the national or local levels and in collaboration with civil society, for the purpose of observing and evaluating the phenomenon of sexual exploitation and sexual abuse of children, with due respect for the requirements of personal data protection? (**Article 10, para. 2, letter (b)**);

I refer again to the above mentioned National Rapporteur on trafficking of human beings and on sexual violence against children and to the Children's Ombudsman.

Over the next few years, the Healthcare Inspectorate will inspect the entire healthcare system to see whether institutions have a domestic violence and child abuse protocol and whether their staff are trained in its use. The municipal healthcare sector (particularly adult psychiatry) will be scrutinized, especially in regard to adult patients with responsibility for children.

The Netherlands reports periodically on the implementation of the UN Convention on the Rights of the Child.

The minister of Security and Justice receives periodical reports by the police and public prosecutor's office on the law enforcement actions with regard to child sexual abuse. Those reports are used in periodical reports to Parliament.

Every year the hotline "meldpunt kinderpornografie op internet" publishes an annual report.

A periodic review of the prevalence of child abuse is executed.

- c. Which legislative or other measures have been taken to organise the collection and storage of data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention? What is the national authority in charge of the collection and storage of such data? (**Article 37, para. 1**).

DNA research is regulated in articles 138a, 151a-z and 191a-q of the Dutch Code of Criminal Procedure. DNA research is possible in cases where people are suspected of having sexually abused children. The national unit for child pornography and child sex tourism within the Dutch national police force manages a register on investigations against suspects of child sexual abuse.

Question 6: National or local coordination, cooperation and partnerships

- a. Please describe how coordination on a national or local level is ensured between the different agencies in charge of the protection from, the prevention of and the fight against sexual exploitation and sexual abuse of children. In particular, please provide information on existing or planned coordination between the education sector, the health sector, the social services and the law enforcement and judicial authorities (**Article 10, para. 1**);
- b. Is cooperation with a view to better preventing and combating sexual exploitation and sexual abuse of children encouraged between the competent state authorities, civil societies and the private sector (**Article 10, para. 3**)? If so, please specify how

Cooperation between authorities, as well as with private entities / NGO's is one of the ultimate goals of new action plan to tackle child abuse, which focuses on preventing, terminating and providing after-care for victims of child abuse and of child pornography as a form of sexual violence. Reference is made to the answer 3.b. Between all parties (governmental and non-governmental) there are regular meetings to ensure close and effective cooperation.

The Netherlands is carrying out a project in which Youth Care is being decentralized, including the effectuation of the tasks involved. This will positively influence a more concrete help to children and families in need. At a local scale it will prove to be more easy to establish client oriented and multitiered assistance. Care that will respond to the actual needs of children and families.

- c. Are partnerships or other forms of cooperation between the competent authorities promoted with particular regard to the recipients of intervention programmes and measures for persons subject to criminal proceedings or convicted of any of the offences established in accordance with the Lanzarote Convention (**Article 15, para. 2 and Article 16**)?

The cooperation between judicial authorities and public health authorities also aims at the intervention programmes for persons who are convicted because of their involvement in child sexual abuse.

Question 7: International cooperation

Has your country integrated prevention and the fight against sexual exploitation and sexual abuse of children in assistance programmes for development provided for the benefit of third states (**Article 38, para. 4**)? Please give examples.

Since 2006 more and more emphasis has been placed on policy aimed at combating child pornography and child sex tourism. The debate gained fresh impetus thanks to new legislative measures developed during the ratification process for the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ('Lanzarote Convention'), which the Netherlands signed in 2007. Various television documentaries examining the actual progress made in the Netherlands on combating these problems coupled with the profound interest of all the country's political parties also led to an intense debate between Parliament and the government.

The realization of the internet hotline www.meldkindersekstoerisme.nl in 2006 and the cooperation with the travel agencies and industries mark the early activities in international cooperation together with NGOs and private industry. In January 2010 the Minister of Security and Justice launched a child sex tourism awareness campaign warning Dutch tourists that child sexual abuse is a criminal offence and advising how to report suspicious situations. The Minister also launched a special website for reporting instances of child sex tourism. On 24 October 2012 a follow-up campaign against child sex tourism was launched with the dual aim of improving the reliability of reports and continuing to draw the public's attention to the issue.

In 2009 and 2010 the Netherlands provided substantial funding in support of a broad-based, ongoing UNICEF program providing technical assistance to Cambodian law enforcement authorities (notably the National Police's Anti-Human Trafficking and Juvenile Protection Department) to tackle abuse of children associated with child sex tourism. Various other activities in the field of prevention and victim care were included in the project. The Netherlands' contribution was aimed at activities in the border provinces with Thailand and Vietnam and in the province of Siem Reap, a popular tourist destination. These included awareness-raising at schools, victim care and various training activities. The project also supported efforts by the Cambodian authorities to curb child trafficking across the border with Thailand and Vietnam.

The Netherlands works closely with the main countries of origin in respect of victims of human trafficking, both through capacity-building and joint investigations. Capacity-building projects have been carried out in Bulgaria, Romania and Nigeria. In early 2011, the Netherlands set up three Joint Investigation Teams on human trafficking with Bulgaria. With financing from the Ministry of Foreign Affairs' human rights fund, and in cooperation with the Romanian anti-trafficking agency and the Romanian child helpline, a project was launched in February 2012 to combat trafficking in children. The Netherlands has also funded projects in India aimed at fighting child labour.

On 9 October 2013 the minister of Security and Justice sent a specific Action Plan on tackling child sex tourism to Parliament (Tweede Kamer 2013-2014, 31015, nr. 93). This Action Plan focuses first on prevention. The plan contains general prevention measures and measures specifically directed at the prevention of recidivism in third countries of Dutch nationals who have been convicted for child sexual abuse. Next to this the Action Plan aims to reinforce the law enforcement actions to counter child sex tourism. Inter alia, through the temporary extra deployment of police liaisons in the vulnerable areas of Asia and the South Americas. A third group of actions is directed towards the deepening, strengthening or renewing of cooperation with national and international partners from NGO's, IO's and private industry. In a pilot project possibilities and good practices in such cooperation will be

collected. But also the more traditional mutual legal assistance, on the basis of multi- or bilateral agreements or on a case to case approach will be explored again.

In short: the Action Plan aims to improve an effective approach towards child sex tourism, both national and international.

PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

Question 8: Education, awareness raising and training

a. Which legislative or other measures have been taken to:

- ensure that children, during primary and secondary education receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves, adapted to their evolving capacities? (**Article 6, Explanatory Report, paras. 59-62**). Please also specify whether this information includes the risks of the use of new information and communication technologies (**Article 6, Explanatory Report, para. 63**);

In recent years a great deal of attention has been focused on media education and media awareness. The government wants to ensure children use media sensibly and with awareness by equipping them properly to use the opportunities the new media afford, and to avoid the risks. The government also wants to foster a safe media output. This led in 2008 to the launch of a media awareness centre of expertise known as “Mediawijzer.net”. The centre receives financial support from the Ministry of Education, Culture and Science. Mediawijzer.net is a network organisation which aims to enhance people’s media awareness. Children and their parents are a key target group.

To increase alertness to signs of child abuse among the public at large, especially those in a child’s immediate surroundings, a publicity campaign was conducted in three consecutive years, entitled ‘Child abuse, what can I do?’. The campaign sought in the first place to raise awareness and help people identify signs of abuse, and in the second place to encourage them to report their suspicions to an Advice and Reporting Centre for Child Abuse and Neglect (AMK). From 2012 onwards, child abuse is one of the themes in a wide-ranging publicity campaign on the theme of violence in relationships of dependency.

- encourage awareness of the protection and rights of children among persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities? (**Article 5, para. 1**);

For years efforts were made to encourage the use of the Child Abuse Protocol, in situations where persons who have professionally regular contact with children become aware of signs of possible abuse en refer these signs to the competent bodies, such as to an Advice and Reporting Centre for Child Abuse and Neglect (AMK). The use of protocols proves to be effective. Professionals who have a protocol report cases three times as often as those without one. 40% of professionals who come into contact with families and children in the course of their work are already using a protocol. To ensure that the rest do so, the Code has been “codified” in the Domestic Violence and Child Abuse Protocol Act in 2012, which is enacted

since July 1, 2013. Organisations in the healthcare, youth care, education, childcare, social support (welfare) and justice sectors must work with a protocol and must publicise it and encourage its use. A protocol contains a step-by-step procedure that shows professionals how to respond to signs of domestic violence and child abuse. With a detailed implementation road map in 2010 and 2011, central government encouraged organisations to start using a protocol, even before the Act enters into effect. This road map consisted of communication campaigns, the development of training courses (including e-learning modules) and a toolkit including a basic model for the protocol, an app with its diverse steps, and a checklist for managers responsible for introducing a protocol into their organisation. The Domestic Violence and Child Abuse Protocol Bill provides that Domestic Violence Advice and Support Centres (SHGs) are to become the formal reporting centres for domestic violence, and that AMKs and SHGs must collaborate in cases involving both domestic violence and child abuse. The Ministry of Youth, Safety and Sport will conduct a survey to the functioning of protocol in 2015 and in 2018 the Domestic Violence and Child Abuse Protocol Bill will be evaluated.

A cohesive package of measures has been developed jointly with the national volunteer centre NOV, Scouting Nederland and the Dutch national Olympic committee and sports federation (NOC*NSF). The measures are designed to prevent young people falling victim to sexual abuse or harassment in voluntary organisations. The project entitled 'In Safe Hands' has developed a toolkit that includes a code of conduct, rules on how volunteers relate to children, risk analysis, a recruitment policy, the requirement of a certificate of good conduct and a reporting protocol. The toolkit is digitally available on the website www.inveiligehanden.nl.

- ensure that persons, referred to while replying to the bullet point above, have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility of reporting suspicions of a child being the victim of such acts? (**Article 5, para. 2**).

The ministry Health, Safety and Sports issued a set of criteria for the competence of persons.

- b. Which policies or strategies have been implemented to promote or conduct awareness-raising campaigns targeted at the general public where the focus is directed especially towards the risks and realities of sexual exploitation and sexual abuse of children? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If there are currently plans for launching a (new) campaign or programme, please provide details (**Article 8, para. 1**);

To increase alertness to signs of child abuse among the public at large, especially those in a child's immediate surroundings, a publicity campaign was conducted in three consecutive years, entitled 'Child abuse, what can I do?'. The campaign sought in the first place to raise awareness and help people identify signs of abuse, and in the second place to encourage them to report their suspicions to an Advice and Reporting Centre for Child Abuse and Neglect (AMK). From 2012 onwards, child abuse will be one of the themes in a wide-ranging publicity campaign on the theme of violence in relationships of dependency.

Young people are an important target group of Dutch policy on sexual health. Teaching packs and other interventions on sexuality/sexual health are developed specially for young people, for use both in and outside school. There is also a reliable website for young people containing lots of information on sexuality and sexual health.

The Child Pornography Hotline (NGO), which is financially subsidized by the government and by the EU ISEC fund organized a website with information packs, and even a possibility to have on line chats on sexual abuse and harassment. Reference is made to the website www.helpwanted.nl.

On line abuse report button. During Safer internet Day 2012 the minister of Security and Justice launched an on line abuse report button. This button is in fact an icon that can be downloaded within the computer user's (Internet Explorer, Mozilla, Safari en Chrome). The report button is connected to a website with all kinds of information about on line problems for youth, such as sexual abuse, bullying and harassment.

On a yearly basis the ministry of Security and Justice, together with police, Kmar, organizations from the tourist industry and ECPAT / PLAN organize an awareness campaign targeted at travellers from Amsterdam airport to acquaint them with the problem of child sex tourism and to advice them on the actions to be taken, such as reporting, when they gather information on concrete child sexual abuse.

- c. Which legislative or other measures have been taken to prevent or prohibit the dissemination of materials advertising the offences established in accordance with this Convention? If so, please provide details (**Article 8, para. 2, Explanatory Report, para. 66**).

Up to now, the Netherlands has implemented this provision through administrative rules (e.g. agreements with the media to ban such advertisements). Under certain circumstances, prosecution of these acts is possible.

Question 9: Recruitment and screening

- a. Which legislative or other measures have been taken to ensure that the conditions for accessing those professions whose exercise implies regular contact with children, ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children? (**Article 5, para. 3**). Please specify to which professions such measures apply. Please also indicate for how long the criminal record of a person who was convicted for such crimes is kept in your country;

A certificate of conduct (Verklaring Omtrent het Gedrag, VOG) is a document by which the Dutch Minister of Security and Justice declares that the applicant did not commit any criminal offences that are relevant to the performance of his or her duties. People can apply, both in person or digitally, for a certificate of conduct at the Population Affairs Department (Burgerzaken/Publiekszaken) of the municipality where they are registered in the Municipal Personal Records Database (GBA). The information you supply on your application form is entered in the computer, which automatically adds data from the GBA. All this information is then sent to Justis which issues certificates on behalf of the Minister. If it emerges from the investigation that they have no criminal record, the certificate will be issued. If they do, the authorities decide whether the offences in question are relevant to the application. Offences that would present difficulties for someone wanting a teaching job, for example, may not be relevant to an accountant. The screening profiles and assessments are laid down in policy rules. Applicants can estimate their prospects of obtaining a certificate in advance by consulting the screening profiles, as can employers in order to check what requirements they may impose on applicants. This also implies that the employer will not be specifically informed about the records (and thus; the offences) that have led to denouncing the VOG. They are informed that the person does not match the profile required.

There is a special profile for people who work with children.

From March, 2013 onwards a new type of screening, being a “continuous screening” was introduced for personnel working in day care centres. This implies that any new criminal record on a specific person working in this field will be looked at specifically by Justis which issues certificates on behalf of the Minister. If Justis deems it necessary they will contact the relevant municipal authority, who will instruct the person to ask for re-issuing of the certificate.

In case of offences connected to abuse of children, be it sexually or by use of other violence, the rules state that there is no time limit for keeping and using criminal records.

NGO’s implemented a code of conduct for their employees and volunteers who work with children.

- b. Does the screening of candidates apply to voluntary activities (**Explanatory Report, para. 57**)?

Over 2 million Dutch nationals work as a volunteer with children, e.g. in sports or scouting. This involves many children who are in need of good and safe guidance. The sport clubs and other organizations themselves bear primary responsibility for guaranteeing safety for children, including safety from possible sexual abuse by caretakers. These organizations are very much encouraged to implement policies on integrity. In order to help the organizations the State secretaries of Security and Justice and of Health, Safety and Sports launched a “toolkit”, a stepped approach and a possible reference list for volunteers who were disciplinary sanctioned. Next to this organizations can make use of the certificate of conduct (see answer above under 9.a.) The government is introducing a subsidy to help organizations of volunteers to overcome the costs of certificates of conduct.

Within the Action plan to tackle child sex tourism the government is exploring the possibilities for screening of volunteers working for Dutch voluntary (often charity) organizations in third countries.

Question 10: Preventive intervention programmes or measures

- a. Which legislative or other measures have been taken to ensure that persons who fear that they may commit any of the offences established in accordance with the Convention, have access to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? Please specify under which conditions, if required (**Article 7, Explanatory Report, para. 64**);

In general people who fear that they may commit child sexual abuse offences are eligible for treatment within the psychological/psychiatric health care in the Netherlands.

Because of the many taboos concerning paedophilia it is important to enhance the possibilities for potential child sexual abusers or persons in their direct circle of trust to be able to articulate their need for enrolling in intervention programs. In a pilot project the Dutch internet hotline and a forensic psychological institution started a project (“Stop it now”) in which such persons can – at first anonymously – make contact with such a program. Government is subsidizing the start of this project, which will later on have to become self-financing.

- b. Which legislative or other measures have been taken to ensure that persons subject to criminal proceedings or convicted for any of the offences established in accordance with the Convention, may have access to effective intervention programmes or measures? Please specify under which conditions, if required (**Articles 15 to 17**). Please indicate in particular:
- who has access to these programmes and measures (convicts, persons subject to criminal proceedings, recidivists, young offenders, persons who have not committed a crime yet?);
 - how the appropriate programme or measure is determined for each person;
 - whether there are specific programmes for young offenders;
 - whether persons have a right to refuse the proposed programme/measures?

Various treatments aimed at preventing recidivism are available in the Netherlands. Within the judiciary system and in prisons convicted persons and detainees are eligible for forensic psychological or psychiatric help by experts. For convicted persons who are on probation the Probation Office acts in a pivotal role to ensure adequate treatment.

Of course the fundamental rights of persons require that the participation in a treatment may not infringe the rights on fair trial. The Dutch system avails of protocols to take appropriate measures for forensic treatment, even before the issues around evidence are completely cleared and without interfering with the rights of the suspect and the defence attorney. The suspect or convict can frustrate a treatment if during psychiatric evaluations the suspect / convict clearly demonstrates to refuse treatment. In general a report of the psychiatric evaluation will not recommend compulsory treatment and a judge will be very reluctant to impose a sentence which also comprise of a compulsory treatment.

Question 11: Participation of the private sector, the media and civil society

What steps have been taken to encourage:

- a. the private sector (in particular the information and communication technology sector, the tourism and travel industry, the banking and finance sectors) to participate in the elaboration and implementation of policies, programmes or other initiatives to prevent sexual exploitation and sexual abuse of children? Please indicate which private sectors are concerned and explain how participation takes place. Please also provide information concerning any relevant code of conduct or enterprise charter aimed at protecting children from sexual exploitation and sexual abuse (**Article 9, para. 2, Explanatory Report, paras. 68-73**);

On the basis of public-private partnership a taskforce is active in which internet service providers, the police and several departments cooperate. A paramount result of this cooperation is the development and implementation of a voluntary “notice and take down” procedure. Nowadays around 95 per cent of internet service providers make use of this procedure.

Furthermore internet service providers teamed up with NGOs to launch the Child Pornography Hotline. This service is subsidised by the Ministry of Security and Justice, the European Commission and internet service providers and plays an important role in preventing and combating child pornography. It offers the public a simple way of reporting sexual exploitation of children. The Child Pornography Hotline office has a good

relationship both with the Dutch police and (via the INHOPE network) with similar hotline offices abroad.

On 13 January 2010 the Minister of Justice also signed a joint declaration with the Dutch Association of Travel Agents and Tour Operators (ANVR) in which they agreed to cooperate more closely on preventing child sex tourism. Thanks in part to this cooperation with the ANVR and ECPAT NL, the subject has now become a regular part of the training of tour guides and travel agency employees. The recently launched Action Plan to tackle child sex tourism steps up the partnerships with private organizations, NGO's, IO's and other civil society.

- b. the media to provide appropriate information concerning all aspects of sexual exploitation and sexual abuse of children (**Article 9, para. 3, Explanatory Report, para. 74**);

See answers to question 8.

- c. the financing, including, where appropriate by the creation of funds, of the projects and programmes carried out by civil society aimed at preventing and protecting children from sexual exploitation and sexual abuse (**Article 9, para. 4, Explanatory Report, para. 75**). May the proceeds of crime be used to finance the above mentioned projects and programmes? Please provide details (**Article 27, para. 5, Explanatory Report, para. 193**).

The Child Pornography Hotline service is subsidised by the Ministry of Security and Justice, the European Commission and internet service providers.

Government is subsidizing the start of the "Stop it now" project, which will later on have to become self-financing. Government also contributes financially to a longitudinal survey on victims of a large child sexual abuse case in Amsterdam in 2010.

Question 12: Effectiveness of preventive measures and programmes

- a. Please specify whether an assessment of the effectiveness and impact of the preventive measures and programmes described in replies to questions 4, 10 and 11 is regularly carried out;
- b. Please provide examples of the good practices in preventing sexual exploitation and sexual abuse of children.

I refer again to the above mentioned National Rapporteur on trafficking of human beings and on sexual violence against children and to the Children's Ombudsman.

Over the next few years, the Healthcare Inspectorate will inspect the entire healthcare system to see whether institutions have a domestic violence and child abuse protocol and whether their staff are trained in its use. The municipal healthcare sector (particularly adult psychiatry) will be scrutinized, especially in regard to adult patients with responsibility for children.

The Netherlands reports periodically on the implementation of the UN Convention on the Rights of the Child.

Good practices:

- Help wanted
- On line meldknop
- Stop it now

- a voluntary “notice and take down” procedure.
- Internet Child Pornography hotline
- International liaison officers
- The Virtual Global Taskforce

PROTECTION AND PROMOTION OF THE RIGHTS OF CHILDREN VICTIMS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

Question 13: Reporting suspicion of sexual exploitation or sexual abuse

- a. Are professionals working in contact with children bound by confidentiality rules? Do these rules constitute an obstacle for reporting to the services responsible for child protection any situation where they have reasonable ground for believing that a child is a victim of sexual exploitation or sexual abuse? Please indicate the criteria or guidelines which allow for the waiving of confidentiality rules (**Article 12, para. 1, Explanatory report, para. 89**);

Professionals working in contact with children are bound by confidentiality rules. But it is imminent that professionals who encounter cases of child (sexual) abuse report this to appropriate channels. Certainly in situations in which the victim and suspect are embroiled in a family relation, or any other relation in a circle of trust, and where the child or the parent, caretaker will not report the abuse. For cases like these the Child Care Act offers a solution in article 53, paragraph 3, where a right to report is stipulated. With reference to this article professionals can report their suspicions of child (sexual) abuse to an Advice and Reporting Centre for Child Abuse and Neglect (AMK).

- b. Are there any rules encouraging any person who knows about or suspects, in good faith, sexual exploitation and sexual abuse of children to report the facts to the competent authorities? If so, please specify under which conditions and to which authorities (**Article 12, para. 2, Explanatory Report, para. 91**). Please provide examples of good practice.

Anyone who suspects child (sexual) abuse in their surroundings can contact the Advice and Reporting Centre for Child Abuse and Neglect (AMK) and remain anonymous if desired. The AMK will advise the reporting person on possible next steps. One of these steps may be an official report. In urgent situations the AMK will see to it that the child is brought to safety.

Children who feel abused can contact or chat on line with helplines such as the Children’s telephone line (Kindertelefoon), or the on line hotline child pornography (www.helpwanted.nl). In 2013 the government conducted a big awareness campaign in the media on child abuse and the possibilities to report suspicions of abuse to the competent organizations. Any person can contact hotline “M” where you can report crime anonymously. The 0800 - 7000 number, which is not a police phone line, is free of charge and available daily. You can give information in Dutch, English or German. The number can also be called from abroad.

I refer back to the use of the Child Abuse Protocol, as described in the answer to question 8.

Question 14: Helplines

Which legislative or other measures have been taken to encourage and support the setting up of information services, such as telephone or internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity? (**Article 13, Explanatory Report, para. 92**).

I refer back to the answers to question 8, 13 (etc.) on:

- on line meldpunt kinderporno (www.helpwanted.nl)
- Kindertelefoon
- AMK (Advice and Reporting Centre for Child Abuse and Neglect)
- Stop It Now
- Anonymous reports via “M”

Question 15: Assistance to victims

a. Please indicate which types of assistance described in **Article 14** are provided to victims of sexual exploitation and sexual abuse of children. (**Explanatory Report paras. 93-100**)

Please specify:

- how the assistance is adapted to the victims' age and maturity;
- how due account is taken of the child's views, needs and concerns;
- if the assistance (in particular emergency psychological care) is also provided to the victims' close relatives and persons responsible for their care.

Victim Support the Netherlands (Slachtofferhulp Nederland) helps people – including young people – who have been the victim of a crime or traffic accident, giving practical and legal advice and emotional support. Staff inform victims about criminal proceedings and can counsel them as proceedings go along. If necessary, they will refer victims to other experts for help. In recent years, Victim Support has radically improved its services for child victims of crime. The organisation's voluntary and paid staff have been trained to improve their skills in providing support for young people who have been the victim of a crime.

More intensive support is offered to surviving relatives and victims of serious violent and sexual crimes. In these cases, surviving relatives and victims are supported by professional case managers of Victim Support. Case managers offer support directly after the crime was committed, during the investigation and criminal proceedings. They offer emotional and practical support, tailored to the needs of victims. Case managers also function as a contact person for judicial organisations, employers and social services.

Internet communication channels are used to give further support to young victims. Juveniles have the opportunity of sending e-mails to Victim Support through the organisation's youth website: www.ikzitindeshit.nl. In March 2010 a chat function was added to this site, since teenagers are familiar with this mode of communication and it appeals to them. Chatting is an accessible and approachable medium that enables young victims to ask for help without much fuss.

The Centrum Seksueel Geweld (Rape center) provides integrated medical, forensic and psychological assistance to victims of recent sexual abuse or sexual violence. At the moment there are three centers in the Netherlands. At least two additional centers will be opened in 2014. Support is provided to victims of all ages. Parents of young children can also receive psychological support from professionals.

- b. Please specify if and to what extent internal law provides for the possibility of removing (**Article 14, para. 3, Explanatory Report, para. 99**):
- the alleged perpetrator, when the parent or persons caring for the child are involved in his or her sexual exploitation or sexual abuse;
 - the victim from his or her family environment when parents or persons caring for the child are involved in his or her sexual exploitation or sexual abuse.

On 1 January 2009 the Temporary Domestic Exclusion Order Act (Wet tijdelijk huisverbod) of 9 October 2008 (Bulletin of Acts and Decrees 2008, 421) and the Temporary Domestic Exclusion Order Decree (Besluit tijdelijk huisverbod) of 20 October 2008 (Bulletin of Acts and Decrees, 422) entered into effect, making it possible for mayors to impose a domestic exclusion order on a perpetrator of domestic violence, in situations of acute threat (or a serious suspicion of such) to the victim and any children involved. A domestic exclusion order means that the person concerned (the 'excluded person') may not enter his home or have any contact with the other occupants for ten days. It can be extended to a maximum of four weeks. The order is intended to prevent the situation escalating and to give an opportunity to provide help.

The Advice and Reporting Centres for Child Abuse and Neglect (AMK) are crucial in these situation. They see to it that in urgent situations the child is brought to safety. Dutch law provides that young people are entitled to care. The government attaches great importance to easily accessible youth care (Youth Care Act).

If the circumstances of a child and his family are so alarming that voluntary assistance is not sufficient, the Child Care and Protection Board (Raad voor de kindbescherming) will, after an investigation that the child should be assisted, request the court to impose a child protection measure. There are several child protection measures possible. The family supervision order is the least demanding and most often imposed measure. With this order, the parents' authority over their children is partially restricted. The other more demanding measures are discharge of parental authority and relief from parental authority. The parents then lose their authority over their child. If the family guardian wants to place a child (temporarily) under a care and protection order, he must ask the court for an authorization. The maximum period of a care and protection order is one year. If the court must authorize an extension of the order.

- c. If internal law does provide for this:
- are the conditions and duration of such removal to be determined in accordance with the best interests of the child?
 - Yes, the child welfare investigators search for the best solution for the child.
 - are social programmes and multidisciplinary structures in place to provide the necessary support for victims, their close relatives and for any person responsible for their care? (**Article 11, Explanatory Report, paras. 87-88**).
- d. Which legislative or other measures have been taken to ensure that victims of an offence established in accordance with the Convention in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their state of residence? (**Article 38, para. 2, Explanatory Report, paras. 258-259**).

Dutch legislation offers this opportunity.

PROSECUTION OF PERPETRATORS OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN

Question 16: Criminal law offences

- a. Please indicate whether the intentional conducts in the box below are considered criminal offences in internal law;
- b. Wherever the intentional conduct which is criminalised differs from the Lanzarote Convention benchmark, please justify;
- c. Please highlight whether there are any other offences not included in the box below incriminating sexual exploitation and sexual abuse of children in your country? Please provide their definitions and specify in which act these are included;
- d. Please also specify whether the age of a child plays a role in determining the gravity of the offence.

Sexual Abuse (Article 18)

1. Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for sexual activities;
2. Engaging in sexual activities with a child where
 - use is made of coercion, force or threats;
 - abuse is made of a recognised position of trust, authority or influence over the child, including within the family;
 - abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence.

- These acts are covered by the set of offences described in Articles 242 – 249 of the Dutch Criminal Code. Article 249 is most relevant in this respect (see attached)

Child Prostitution (Article 19)

1. Recruiting a child into prostitution or causing a child to participate in prostitution;
2. Coercing a child into prostitution or profiting from or otherwise exploiting a child for such purposes;
3. Having recourse to child prostitution.

- These acts are covered by the set of offences described in article 248a, 248b, 250, 273f of the Dutch Criminal Code.

Child Pornography (Article 20)

1. Producing child pornography;
2. Offering or making available child pornography;
3. Distributing or transmitting child pornography;
4. Procuring child pornography for oneself or for another person;
5. Possessing child pornography;
6. Knowingly obtaining access, through information and communication technologies, to child pornography.

- These acts are covered by the set of offences described in article 240b of the Dutch Criminal Code.

Participation of a Child in Pornographic Performances (Article 21)

1. Recruiting a child into participating in pornographic performances or causing a child to participate in such performances
2. Coercing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes
3. Knowingly attending pornographic performances involving the participation of children.

- These acts are covered by the set of offences described in Articles 242 – 247 of the Dutch Criminal Code. Articles 248a, 248c and 248d, as well as the article on trafficking of human beings (art. 273f) are most relevant in this respect (see attached)

Corruption of Children (Article 22)

The intentional causing, for sexual purposes, of a child who has not reached the internal legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate.

- This act is covered by the offence described in article 248d of the Dutch Criminal Code.

Solicitation of Children for Sexual Purposes (“grooming”) (Article 23)

The intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age for sexual activities as established by internal law, for the purpose of committing sexual abuse or producing child pornography, where this proposal has been followed by material acts leading to such a meeting.

- This acts is covered by the offence described in article 248e of the Dutch Criminal Code.

Aiding or abetting and attempt (Article 24)

1. Intentionally aiding or abetting the commission of any of the above offences.
2. The attempt to commit any of the above offences.

- Aiding or abetting and attempt is covered by article 45, 46 and 47 of the Dutch Criminal Code.

Question 17: Corporate liability

Does your system provide that a legal person may be held liable for an offence established in accordance with **Article 26**? Please specify under which conditions.

In general a legal person can be held liable for criminal offences on the basis of article 51 of the Dutch Criminal Code.

Question 18: Sanctions and measures

- a. Please indicate which sanctions internal law provides for the criminal offences established in accordance with the Convention with regard to both natural and legal persons. Please specify whether the sanctions are criminal, civil and/or administrative sanctions (**Article 27, Explanatory Report, paras. 182-193**);

<i>Specific article in the code of criminal conduct</i>	<i>Summarized Content</i>	<i>(Maximum) Penalty</i>
Art. 240a	Providing, offering or displaying any kind of child pornography	1 year imprisonment or fine of the fourth category
Art. 240b	Distributing, offering, producing of child pornography (making a habit of it)	Up to eight years imprisonment or fine of the fifth category
Art. 242	Rape (sexual penetration of the body)	Twelve imprisonment or fine of the fifth category
Art. 243	Sexual acts or penetration with a person with a reduced state of mind or consciousness	Eight years imprisonment or fine of the fifth category
Art. 244	Acts of sexual penetration with a person of at most twelve years old	Twelve years imprisonment or fine of the fifth category
Art. 245	Acts of sexual penetration with a person of at most sixteen years old	Eight years imprisonment or fine of the fifth category

Art. 246	Committing indecent assault	Eight years imprisonment or fine of the fifth category
Art. 247	Committing indecent assault with a person with a reduced state of mind or consciousness	Six years imprisonment or fine of the fourth category
Art. 248	Specific conditions which will lead to a more harsh punishment, like if the above mentioned articles result in death.	Up to eighteen years imprisonment or a fine of the fifth category
Art. 248a	Intentionally induce a person of at most eighteen years old to perform indecent acts	Four years imprisonment or fine of the fourth category
Art. 248b	Performing sexual acts with someone who makes himself available for payment and is between 16 and 18 years old.	Four years imprisonment or fine of the fourth category
Art. 248c	The person who intentionally is present at the performance of indecent acts by a person who has not yet reached the age of eighteen	Four years imprisonment or fine of the fourth category
Art. 248d	The person who induces, with an indecent motive, another person who has not yet reached the age of sixteen, to witness sexual acts.	Two years imprisonment or fine of the fourth category
Art. 248e	Grooming	Two years imprisonment or fine of the fourth category
Art. 249	Indecent assault with the misuse of authority	Six years imprisonment or fine of the fourth category
Art. 250	A person who intentionally causes or facilitates the commission of sexual abuse by his minor with a third party.	Four years imprisonment (can be increased by 1/3) or fine of the fourth category
Art. 251	Additional punishment	-
Art. 273f	Human trafficking	Up to eighteen years or fine of the fifth category.

- b. Which legislative or other measures have been taken to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with the Convention? Please provide details and describe any good practice resulting from the taking of these measures (**Article 29, Explanatory Report, paras. 203-208**).

If this is known to Dutch authorities, the Dutch judge will consider previous convictions in related offences that have been committed outside the Netherlands, when passing a sentence. If Dutch authorities are aware of those prior convictions the prosecutor sees to it that the information is recorded in the case files for the judge.

Question 19: Jurisdiction

With regard to the offences referred to in question 16, please indicate which jurisdiction rules apply. Please specify under which conditions, if required (**Article 25, Explanatory Report, paras. 165-176**).

Jurisdiction for sexual exploitation and sexual abuse is assumed when the offence is committed abroad against a national or a person who has his or her habitual residence in the Netherlands (art. 5 en 5a Sr.)

Investigations can be conducted and the Public Prosecution Service can initiate criminal proceedings on suspicions of violation of Section 240b or 248e of the Dutch Penal Code in the following cases:

- if the criminal offence was committed within the Netherlands (Section 2 of the Dutch Penal Code);
- if the offence was committed on board a Dutch vessel or aircraft (Section 3 of the Dutch Penal Code);
- if the offence was committed by a Dutch citizen abroad (Section 5(1) preamble and sub 3 of the Dutch Penal Code);
- if the offence was committed by an alien abroad with a fixed permanent or temporary address in the Netherlands or who acquired a fixed permanent or temporary address in the Netherlands after the commission of the offence (Section 5a of the Dutch Penal Code);
- if the offence was committed abroad against Dutch subjects, or against persons who have a fixed permanent or temporary address in the Netherlands (Section 5b of the Dutch Penal Code, entered into effect on 1 April 2010).

Extradition to Contracting States is possible pursuant to Section 51a of the Extradition Act. Since 26 August 2005, extradition has been possible in respect of sections 240b and 273f of the Dutch Penal Code insofar as the offence comes within the scope of the descriptions of Section 3 of the Treaty of New York, dated 25 May 2000 (Treaty Series 2001, 63). Since 1 January 2010, extradition has been possible in respect of the sections 240b to 250 and 273f of the Dutch Penal Code, insofar as the offence comes within the scope of the descriptions of Sections 18 to 24 of the Treaty of Lanzarote of 25 October 2007 (Treaty Series 2008, 58).

Question 20: Aggravating Circumstances

Please indicate which of the circumstances referred to in **Article 28**, in so far as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration in your legal system as aggravating circumstances in the determination of the sanctions in relation to the offences established in accordance with this Convention (**Explanatory Report, paras. 194-202**).

In several cases an aggravating circumstance is already incorporated in the relevant provisions. An example is the article 240 b on child pornography. "making a habit" of any of the actions constituting an act of child pornography is seen as an aggravating circumstance. As a result of the entry into force of the legislation implementing the Treaty of Lanzarote, as of 1 January 2010 two new subsections were added to Section 248 of the Dutch Penal Code, which relates to aggravating circumstances in respect of various sexual offences. The subsections read as follows:

1. The prison sentences provided in Sections 240b, 242 to 247, 248a to 248e, 249 and 250 may be increased by one third if the offence is committed jointly by two or more persons.

2. The prison sentences provided in Sections 240b, 242 to 247, 248a to 248e may be increased by one third if the offender commits the offence against his child, a child submitted to his authority, a child that he cares for or rears as if part of his family, his ward, a minor entrusted to his care, instruction or supervision, or his minor servant or subordinate.

Question 21: Measures of protection for the child victim

More attention was given to victim support during the last few years. The Dutch government has launched several measures to strengthen the position of victims in criminal proceedings, as well as in the society at large. Dutch law has a specific legal framework in relation to most of the measures on the treatment and protection of victims as prescribed by the Treaty. First of all the judicial procedure must not aggravate the affliction or damages already suffered. Many of the appropriate measures are designed to prevent secondary victimization.

On 1 January 2011 the Act amending the Code of Criminal Procedure, the Criminal Code and the Criminal Injuries Compensation Fund Act to strengthen the position of victims in criminal proceedings entered into effect. This means that victims' rights are now laid down in a separate part of the Code of Criminal Procedure. Victims are entitled to correct treatment and, to information about the progress of the case from the time a victim has lodged a criminal complaint until the offender's release. Victims have a right to recovery of damage or loss and the right to request the public prosecutor for inspection of the case file and adding documents to the case file. During the hearing, victims may be represented by a legal counsel and may bring an interpreter. Victims or surviving relatives are entitled to speak during the trial and may be eligible for compensation of damages by a specific fund (Schadefonds Geweldsmisdrijven) when they cannot be compensated otherwise. Victims and surviving relatives can be assisted by regional Victims Bureau's (Slachtofferloketten).

Current Cabinet policy is aimed at even further strengthening the position of victims. Five policy goals have been formulated:

- victims are to be recognized as such and will have to be informed of their rights;
 - the position of victims is firmly backed up by the law;
 - victims will be protected if necessary;
 - victims will be helped where possible to overcome the consequences of the crime they have fallen victim to;
 - victims will be offered means to compensation, be it financial, practical or emotional.
- a. Please describe the measures taken to inform child victims of their rights, the services at their disposal, the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role as well as the outcome of their cases (**Article 31, para. 1, letter (a) and para. 2**). Please also indicate what is done to provide all relevant information in a manner adapted to the child's age and maturity and in a language that he/she may understand;

On 1 January 2011 the Act amending the Code of Criminal Procedure, the Criminal Code and the Criminal Injuries Compensation Fund Act to strengthen the position of victims in criminal proceedings entered into effect. This means that victims' rights are now laid down in a separate part of the Code of Criminal Procedure. They include the right to correct treatment, the right to be informed about the progress of the case from the time a victim has lodged a criminal complaint until the offender's release, the right to recovery of damage or loss and the right to request the public prosecutor for inspection of the case file and adding documents to the case file. During the hearing, victims may be represented by a legal counsel and may bring an interpreter. More specifically, victims have the right to be informed of the decision to drop the investigation or the decision to

drop the charges against the suspect. Victims are also informed of the start and progress of the prosecution of the suspect, the date, time and place of the hearing and the final judgment in the case against the suspect. Victims of serious crimes and surviving relatives are also informed, if they wish, of the release of the offender from detention. These rights apply to all victims, including minors.

In practice the Dutch prosecutor is the main authority responsible to uphold victims' rights during the various stages of investigation and prosecution. Oversight on the actual and correct treatment of the victim is the starting point in the Directive of the Dutch national prosecution's Office on Child Pornography and the Directive of the Dutch national prosecution's Office on the Investigation and Prosecution of Sexual Abuse. These directives follow closely the more general Directive of the Dutch national prosecution's Office on Victim Care

In addition the police, the Public Prosecution Service and Victim Support have set up regional Victims Bureau's (Slachtofferloketten), where victims can obtain information about their criminal case and their rights.

- b. Please also indicate which measures have been taken to enable the child victim to be heard, to supply evidence and to choose the means of having his/her views, needs and concerns presented, directly or through an intermediary, and considered (**Article 31, para. 1, letter (c)**);

Child victims of sexual crimes under the age of twelve and mentally impaired persons, or persons with a cognitive functional disorder are heard by certified practitioners in child friendly studio's. These interviews are recorded audio visually.

Since 1 January 2005, victims of serious crimes and surviving relatives have the right to make a statement in court on the impact the crime has had on them. The statement may also be submitted in writing. Children aged twelve and over also have the right to make a victim impact statement, as do children under twelve who are regarded as capable of making a reasonable assessment of their own interests. The legislation expanding the right to make a statement in court entered into effect on 1 September 2012. The act gives parents or guardians of victims under 18 who cannot speak for themselves the right to speak. They are given the opportunity to talk about the impact the crime has had on them.

- c. What kind of support services are provided to child victims and their families so that their rights and interests are duly presented and taken into account? (**Article 31, para. 1, letter (d)**);

The police, the Public Prosecution Service and Victim Support have set up regional Victims Bureau's (Slachtofferloketten).

- d. Please describe the measures taken to protect the privacy, the identity and the image of child victims (**Article 31, para. 1, letter (e)**)

Hearings are open to the public and press, unless the suspect is a minor.

- e. Please describe the measures taken to provide the safety of the child victims and witnesses and their families from intimidation, retaliation and repeat victimisation (**Article 31, para. 1, letter (f)**);

Reference is made to the answers to question 15b (see above) 22d (see below).

- f. Please specify whether the victim and his/her family are informed when the person prosecuted or convicted is released temporarily or definitely from detention or custody. Please indicate who delivers this information and how (**Article 31, para. 1, letter (b)**);

Victims of serious crimes and surviving relatives are informed by the Public Prosecution Service, if they wish, of the first time the perpetrator is granted leave and the date of release from prison, forensic hospital or juvenile institution.

- g. Please also indicate what measures have been taken to ensure that contact between victims and perpetrators, within court and law enforcement agency premises, is avoided. Please specify under which conditions the competent authorities may authorise such contact in the best interests of the child or when the investigations or proceedings require such contact (**Article 31, para. 1, letter (g)**);

In 2012 the Council for the Judiciary has adopted a protocol which contains general principles on the treatment of victims in court premises. According to the protocol, separate waiting areas have to be available for victims in order to avoid confrontation between suspects and victims.

- h. Please specify under which conditions child victims of the offences established according to the Convention have access to legal aid provided free of charge (**Article 31, para. 3**).

During the hearing, victims may be represented by a legal counsel. Victims of serious violent or sexual crimes, including child victims, have the right to free legal aid. For victims of other crimes, the income and capital of the victim determine whether or not he/she qualifies for state-funded legal aid.

Question 22: Investigations and criminal measures to protect the child victim

- a. What protective approach towards victims has been adopted to ensure that the investigations and criminal proceedings do not aggravate the trauma experienced by the child and that the criminal justice response is followed by assistance, where appropriate? (**Article 30, para. 2, Explanatory Report, paras. 211-215**);

The Directive of the Dutch national prosecution's Office on Child Pornography and the Directive of the Dutch national prosecution's Office on the Investigation and Prosecution of Sexual Abuse are the basis of victim protection during criminal investigations and proceedings. Given the particular position of the victim, utmost care is required in vice cases. The victim is informed about the possibility to receive information (the course of the investigations and the ensuing criminal proceedings, including the enforcement), the various stages of the proceedings and the victim's position in these, the possibilities for obtaining practical, emotional or legal support from the Victim Support Centre, the possibility to claim damages, whether or not within the context of a criminal case, and the possibility to surrender his/her claim to seized items of property. Questioning minors, mentally impaired persons, or persons with a cognitive functional disorder in relation to sexual offences is a complex task. However, establishing the truth remains crucial in such cases. For this reason, the questioning of minors below the age of twelve, mentally impaired persons, or persons with a cognitive functional disorder is conducted by means of video-recorded interviews, both in the case of witnesses and in the case of persons reporting a crime. The police have fixed links with a medical service or a forensic doctor who can be consulted in the event of sexual offences. The qualified detective advises the person making the report to consult this service or doctor. However, people's freedom to choose a doctor is observed. If the person making the report withholds permission to

include the medical details in the investigation, this fact is noted in the report. Possible consequences of such a refusal are pointed out to the person concerned. The medical forensic examination is carried out by the experts in accordance with the established forensic standards. The possibility of testing for sexually transmitted diseases should be pointed out to the person concerned. If in a sexual offence, the suspect is mentally impaired or has a cognitive functional disorder, the suspect is questioned by at least one specialist in video-recorded interviews, or by a qualified vice detective. This interview is recorded on video. The Directive on Child Pornography (Dutch Penal Code, Section 240b) (repealed) (2007A020) dictates that the interrogation of a witness, victim or suspect must be carried out by at least one qualified vice detective. The Directive on the Investigation and Prosecution of Sexual Abuse and the Directive on Child Pornography are in line with the Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

- b. Which legislative or other measures have been taken to ensure that investigations or prosecutions of offences established in accordance with the Convention shall not be dependent upon the report or accusation made by a victim and that the proceedings may continue even if the victim has withdrawn his or her statement? (**Article 32, Explanatory Report, para. 230**);

In view of the complexity of vice cases, an informative interview is always conducted. It must be made clear to the person making the report that the informative interview may be the start of investigation and prosecution. Attention must also be paid to the question of whether the acts reported constitute a criminal offence that can be prosecuted, and to whether the person needs support. The person making the report is also informed about the initial possibilities for civil proceedings and about social welfare aspects, possibly in conjunction with criminal proceedings. Adequate referral to competent bodies forms part of the information provided to the person making the report. After the informative interview, the person concerned is in principle granted a period of reflection to think about his or her decision to make an official report. If no report is made, there will always be communication between the person concerned and the police about the reason for this. If the person concerned states that he/she does not want to make a report, but a criminal offence was involved, as much evidence as possible will be collected for the purpose of possible ex officio prosecution. Prosecution may be indicated if the mental and/or physical integrity of the person concerned is seriously endangered or if the person concerned is evidently in a position of dependency. The same applies if prosecution is demanded by the public interest. During the informative interview, the person concerned or his/her legal representative is clearly informed about the possibility of ex officio prosecution.

- c. Which legislative or other measures have been taken to ensure that the statute of limitation for initiating proceedings with regard to the offences established in accordance with **Articles 18, 19, paragraph 1.a and b, and 21, paragraph 1.a and b**, shall continue for a period of time sufficient to allow the efficient starting of proceedings after the victim has reached the age of majority and which is commensurate with the gravity of the crime in question? (**Article 33, Explanatory Report, paras. 231-232**);

Since April 1, 2013 serious child sexual abuse crimes, punishable with a sentence of 8 years of imprisonment or more will not become superannuated. This will be the case when a child (under 16) has been raped or in case of acts of sexual penetration. The period for superannuation has also been deleted for those crimes committed before April 2013 that were at the time not superannuated.

- d. Please clarify whether your judicial authorities may appoint a special representative for the victim who may be party, where the holders of parental responsibility are precluded from representing the child in proceedings related to sexual exploitation or sexual abuse of children as a result of a conflict of interest between them and the victim. Please specify who may be appointed as a representative and what are his/her tasks (**Article 31, para. 4**). Please also describe under which conditions it is possible;

According to the Dutch Civil Code (art. 1:250) de judge can install a special curator to deal with matters with respect to take care of nurturing and educating children. The article intends to cover all situations of conflict with regard to taking care and provide for children. Also other institutes are entitled to ask for the appointment of a special curator, especially the Child care and Probation Board, which is an organization that will first notice a situation of abuse within a family.

The special curator will represent the child de jure and in practical situations. By Interpreting the rules in de Civil code it is deducted that acts of sexual abuse against a child by the parents or caretakers constitutes a conflict of interest, that will serious endanger the safety and education of children, because of which installation of a curator is needed.

In case of a conflict of interest between the holders of parental responsibility and the child victim, a special representative may be appointed.

- e. Please describe how your internal law allows for groups, foundations, associations or governmental or non-governmental organisations assisting and/or supporting victims to participate in legal proceedings (for example, as third parties) (**Article 31, para. 5**). Please specify under which conditions, if so required;

According to the Dutch Code of criminal procedure (art. 51c) victims have the right to be assisted. During a hearing victims may be represented by counsel. The Minister of Security and Justice installed The Legal Aid Board (Raad voor Rechtsbijstand). Its aim is to make sure people will have legal representation should they require any. If they cannot afford legal counsel, the Board will provide financial support. The legal counsel will receive a 'toevoeging', a monetary allowance. People will pay part of the cost themselves. The size of their contribution depends on the height of their income. Victims may also ask someone from Victim Support to accompany them to the hearing, or any other person they wish to bring along.

- f. Please describe under which circumstances the use of covert operations is allowed in relation to the investigation of the offences established in accordance with the Convention (**Article 30, para. 5**);

Special powers of investigation in the Netherlands, the so called BOB-bevoegdheden in the penal code, provides for three undercover powers: covert investigation (infiltration), pseudo purchase/services and systematically obtaining intelligence about suspects through undercover investigations. These powers involve situations in which an investigating officer is active in the milieu of the suspected persons without his identity as investigating officer being known. In addition, the Wet BOB covers all types of surveillance, or entering and 'looking into' premises and recording of confidential communications. Special powers of investigation must only be applied to investigate and settle criminal cases in a criminal court. Other purposes, such as only improving the intelligence held by the police or the dismantling of a criminal organisation that do not lead to settlement by a criminal court are thus excluded here.

- g. Please also describe what techniques have been developed for examining material containing pornographic images of children (**Article 30, para. 5**).

It is important to seize all the suspect's digital and analogue data carriers that are important for the investigation. Investigation of the computer can provide insight into the behaviour of the suspect in respect of child pornography. In view of the importance of digital expertise in such investigations, for instance in relation to encrypted data and protected data carriers, digital expertise must be available during investigation of the house or searches of the premises and must be involved for the remainder of the investigation. It is still subsequently up to an expert to assess seized files to determine their content and whether they are criminal. In making this assessment, the instruments available to the reporting officer are his or her training and experience in vice cases, more specifically in assessing child pornography, general knowledge about children's physique and physical development, other images for the purpose of comparison, and where necessary the Tanner criteria.

Dutch police invested heavily in research and development of new technological methods that support the tactical and forensic investigations into child sexual abuse cases. This involves among other things technical tools to quickly search images of sexual abuse in computer folders with images or in movies in an automated way, and thus without having a detective looking at all the images or movies that have been recorded in computers or digital data carriers.

The digital tactical investigation should include investigation of chats, emails and internet use in order to establish whether the suspect was part of a paedophile network and/or whether he was involved in sexual abuse and the production of child pornographic images.

For many years Dutch police has saved images of child sexual abuse, which have been classified as being illegal images according to the Dutch penal law, in a database. To enhance the effective use of this database the images have been hash coded.

Dutch law enforcement, especially the police, actively participates in Interpol's efforts in identification of victims. This includes contributing and making use of the ICSE database.

In 2012 an application by the Netherlands was awarded for a grant within the ISEC framework to set up a project, called In-4-mation, to explore (more) possibilities to share information between Europol, Interpol and (during the project five) EU Member States. This project has recently started. In 2013 and 2014 the project will outline judicial, technical, and/or other barriers within the member states or the organizations.

Question 23: Child friendly interviewing and proceedings

- a. Please describe how interviews (**Article 35**) with child victims are carried out, indicating in particular whether:
- they take place without unjustified delay after the facts have been reported to the competent authorities;
 - they take place, where necessary, in premises designed or adapted for this purpose;
 - they are carried out by professionals trained for this purpose;
 - the same persons are, if possible and where appropriate, conducting all interviews with the child;
 - the number of interviews is as limited as possible and in so far as strictly necessary for the purpose of proceedings;

- the child may be accompanied by his or her legal representative or, where appropriate, an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

Interviews with minors are conducted, if necessary, in a child friendly studio. The investigative officer who conducts the interview in a child-friendly studio has a qualification in *'Interviewing young or mentally handicapped witnesses'*, or is currently taking this training. In the latter case, the interview will take place under the supervision of a teacher. In particular cases, the interview may be conducted by a specialized interviewer. Questioning minors, mentally impaired persons, or persons with a cognitive functional disorder in relation to sexual offences is a complex task. However, establishing the truth remains crucial in such cases. For this reason, the questioning of minors below the age of twelve, mentally impaired persons, or persons with a cognitive functional disorder is conducted by means of video-recorded interviews, both in the case of *witnesses* and in the case of *persons reporting a crime*. This interview is recorded on video. In light of the complexity of such interviews, external experts who are specialized in interviewing minors play an important role in terms of advice. In the preparatory phase, these experts can advise, for instance, about the best way to communicate with the person concerned, and about the interview plan. In addition, the external expert can, if necessary, give advice from the direction room. In exceptional circumstances, at the detective's request and after the public prosecutor has given permission, an external expert may be present at the interview.

- b. Please also specify whether all interviews with the victim or, where appropriate, those with a child witness, may be videotaped and whether these videotaped interviews may be accepted as evidence during the court proceedings;

See under a.

- c. Please describe under which conditions the judge may order the hearing to take place without the presence of the public and the child victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies? (**Article 36**).

The young age, and the possibility of secondary victimization, may be circumstances in which a judge may decide to have a hearing take place without the presence of the public.

ANNEX

- **Article 240a**

The person who provides, offers or shows a picture, object or data carrier containing an image whose display could be considered damaging for persons below the age of sixteen to a minor of whom he knows or should reasonably know that this person is younger than sixteen, will be punished with a term of imprisonment of at most one year or a fine of the fourth category.

- **Article 240b**

- 1. The person who distributes, offers, openly displays, produces, imports, forwards, exports, acquires, has in his possession or gains access by means of an automated work or by making use of a communication service, an image – or a data carrier containing an image – of a sexual act, in which someone who evidently has not reached the age of eighteen is involved or appears to be involved, will be punished with a term of imprisonment of at most four years or a fine of the fifth category.
- 2. Those who make a profession or habit of the commission of one of the criminal offences described in the first paragraph, will be punished with a term of imprisonment of at most eight years or a fine of the fifth category.

- **Article 242**

The person who, by an act of violence or another hostile act or by a threat of violence or other hostile act, forces someone to undergo acts that consist, or consist in part, of the sexual penetration of the body, will be punished, being guilty of rape, with a term of imprisonment of at most twelve years or a fine of the fifth category.

- **Article 243**

The person who commits acts that consist, or consist in part, of the sexual penetration of the body, with a person who he knows to be in a state of unconsciousness, reduced consciousness or a condition of being physically helpless or unable to resist or to be suffering from such limited development or pathological disorder of his mental faculties that he is not, or insufficiently, able to determine or express his will in that respect or to resist such acts, will be punished with a term of imprisonment of at most eight years or a fine of the fifth category.

- **Article 244**

The person who commits acts, with a person below the age of twelve, that consist, or consist in part, of the sexual penetration of the body, will be punished with a term of imprisonment of at most twelve years or a fine of the fifth category.

- **Article 245**

The person who commits indecent acts, with a person who has reached the age of twelve but not yet the age of sixteen, outside of a marriage, which consist, or consist in part, of the sexual penetration of the body, will be punished with a term of imprisonment of at most eight years or a fine of the fifth category.

- **Article 246**

The person who, by an act of violence or another hostile act or by a threat of violence or other hostile act, forces someone to commit or to tolerate indecent acts will be punished, being guilty of actual indecent assault, with a term of imprisonment of at most eight years or a fine of the fifth category.

- **Article 247**

The person who commits acts that consist, or consist in part, of the sexual penetration of the body, with a person who he knows to be in a state of unconsciousness, reduced consciousness or a condition of being physically helpless or unable to resist or to be suffering from such limited development or pathological disorder of his mental faculties that he is not, or insufficiently, able to determine or express his will in that respect or to resist such acts, or who commits indecent acts with a person below the age of sixteen, outside of a marriage, or induces the latter person to commit or tolerate such acts outside of a marriage with a third party, will be punished with a term of imprisonment of at most six years or a fine of the fourth category.

- **Article 248**

- 1. The terms of imprisonment provided for in Articles 240b, 242 to 247, 248a to 248e, 249 and 250, can be increased by one third if the act is committed by two or more persons acting jointly.
- 2. The terms of imprisonment provided for in Articles 240b, 242 to 247 and 248a to 248e, can be increased by one third if the perpetrator commits the act against his own child, a child in respect of which he has custody, a child he cares for or raises as a member of his own family, his pupil, a minor entrusted to his care, instruction or supervision, or a minor who is his servant or subordinate.
- 3. If one of the criminal offences described in 240b, 243, 245 to 247, 248a, 248b and 249 results in serious physical injury or there is a likelihood that it will put the life of another in danger, a term of imprisonment of at most fifteen years or a fine of the fifth category will be imposed.
- 4. If one of the criminal offences described in 240b, 242, 243 to 247, 248a, 248b and 249 results in death, a term of imprisonment of at most eighteen years or a fine of the fifth category will be imposed.

- **Article 248a**

The person who intentionally induces a person, of whom he knows, or should reasonably assume, that such person has not yet reached the age of eighteen, by means of gifts or promises of money or goods, abuse of dominance arising from actual relationships, or deceit, to perform indecent acts or to tolerate such acts from him, will be punished with a term of imprisonment of at most four years or a fine of the fourth category.

- **Article 248b**

The person who performs indecent acts with someone who makes himself available to perform sexual acts with a third party for payment and who has reached the age of sixteen but who has not yet reached the age of eighteen, will be punished with a term of imprisonment of at most four years or a fine of the fourth category.

- **Article 248c**

The person who intentionally is present at the performance of indecent acts by a person of whom he knows, or of whom he should reasonably assume, that this person has not yet reached the age of eighteen or who is intentionally present at the display of images of such acts in an establishment designated for that purpose, will be punished by a term of imprisonment of at most four years or a fine of the fourth category.

- **Article 248d**

The person who induces, with an indecent motive, another person, of whom he knows, or should reasonably assume, that such person has not yet reached the age of sixteen, to witness sexual acts, will be punished with a term of imprisonment of at most two years or a fine of the fourth category.

- **Article 248e**

The person who proposes to arrange a meeting, by means of an automated work or by making use of a communication service, to a person of whom he knows, or should reasonably assume, that such person has not yet reached the age of sixteen, with the intention of committing indecent acts with this person or of creating an image of a sexual act in which this person is involved, will be punished with a term of imprisonment of at most two years or a fine of the fourth category, if he undertakes any action intended to realise that meeting.

- **Article 249**

- 1. The person who sexually abuses his own child, step child or foster child, his pupil, a minor entrusted to his care, instruction or supervision, or a minor who is his servant or subordinate, will be punished with a term of imprisonment of at most six years or a fine of the fourth category.
- 2. The following persons will be liable to the same punishment:
 - 1. A public servant who sexually abuses a person subject to his authority or entrusted or recommended to his care;
 - 2. The director, doctor, teacher, official, supervisor or service staff member of a prison, state institution for the care and protection of children, orphanage, hospital, or charitable institution, who sexually abuses a person admitted to such institution;
 - 3. The person who, when working in health care or social care, sexually abuses a person who has entrusted himself, as a patient or client, to the assistance or care of such care worker.

- **Article 250**

- 1. The person who:
 - 1. intentionally causes or facilitates the commission of sexual abuse by his minor child, stepchild or foster child, his pupil, a minor entrusted to his care, instruction or supervision or a minor who is his servant or subordinate, with a third party, will be punished with a term of imprisonment of at most four years or a fine of the fourth category;
 - 2. with the exception of the cases referred to at 1 above, intentionally causes or facilitates the commission of sexual abuse with a third party by a minor whose minority he knows or should reasonably assume.
- 2. If the guilty person makes a habit of committing the criminal offence, the terms of imprisonment can be increased by one third.

- **Article 251**

- 1. In the event of conviction of any of the criminal offences set out in Articles 240b to 247 or 248a to 250, refusal of the rights referred to in Article 28, first paragraph, at 1, 2 and 4, may be pronounced.
- 2. If the person guilty of any of the criminal offences set out in Articles 240b to 247 or 248a to 250 files an appeal, he may be denied the exercise of that appeal.

- **Article 273f**

- 1. If found guilty of trafficking in human beings, the following persons will be punished with a term of imprisonment of at most eight years or a fine of the fifth category:
 - 1. The person who acquires, transports, transfers, accommodates or takes in another person, by coercion, violence or another hostile act or threat of violence or another hostile act, through extortion, fraud, deceit or abuse of dominance arising from actual circumstances, through abuse of a vulnerable position or by giving or receiving payments or benefits to gain the approval of a person who has authority over said other person, with the intention of exploiting said other person or removing his organs;

- 2. The person who recruits, transports, transfers, accommodates or takes in another person with the intention of exploiting said other person or removing his organs;
- 3. The person who recruits, takes along or kidnaps another person with the intention of inducing said other person to make himself available to perform sexual acts with or for third parties in return for payment in another country;
- 4. The person who forces or induces another, through one of the means referred to at 1, to make himself available to perform labour or services or to make his organs available, or who undertakes any action in the circumstances referred to at 1, in respect of which he knows or should reasonably assume that, as a result, said other person will make himself available to perform labour or services or would make his organs available;
- 5. The person who induces another to make himself available to perform sexual acts with or for a third party in return for payment, or to make his organs available in return for payment, or who takes any action towards another in respect of which he knows or should reasonably assume that said other person will as a result make himself available to perform said acts or make his organs available in return for payment, while said other person has not yet reached the age of eighteen;
- 6. The person who intentionally benefits from the exploitation of another;
- 7. The person who intentionally benefits from the removal of organs of another, while he knows or should reasonably assume that such organs were removed under the circumstances referred to at 1;
- 8. The person who intentionally benefits from sexual acts performed by another with or for a third party in return for payment, or from the removal of another's organs in return for payment, while said other has not yet reached the age of eighteen;
- 9. The person who forces or induces another, through one of the means referred to at 1, to let him benefit from the sexual acts of that other person with or for a third party, or from the removal of his organs.
- 2. Exploitation comprises at least the exploitation of another in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, slavery or practices similar to slavery or servitude.
- 3. The guilty person will be punished with a term of imprisonment of at most twelve years or a fine of the fifth category, if:
 - 1. The acts, described in the first paragraph, are committed by two or more persons acting jointly;
 - 2. The person against whom the facts described in the first paragraph are committed has not yet reached the age of sixteen.
- 4. If an act described in the first paragraph results in serious physical injury or if there is a likelihood that it will put the life of another in danger, a term of imprisonment of at most fifteen years or a fine of the fifth category will be imposed.
- 5. If one of the acts described in the first paragraph results in death, a term of imprisonment of at most eighteen years or a fine of the fifth category will be imposed.
- 6. Article 251 will apply accordingly.