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LANZAROTE CONVENTION

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

Replies to the thematic questionnaire

NETHERLANDS

1st thematic monitoring round

“Sexual abuse of children in the circle of trust”

Replies registered by the Secretariat on 4 June 2015

Question 1: Data on sexual abuse in the circle of trust

Please indicate whether data are collected for the purpose of observing and evaluating the phenomenon of sexual abuse of children in the circle of trust. If so, please:

- specify what mechanisms have been established for data collection or whether focal points have been identified especially with regard to statistical data on victims and offenders within the circle of trust (**Article 10 (2) (b), Explanatory Report, paras. 83 and 84**);
- include any relevant data in an Appendix.

As explained in the reply to question 5B of the general overview questionnaire (GOQ), the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, the Children's Ombudsman, the Healthcare Inspectorate, the Minister of Security and Justice, the periodical reports on the implementation of the UN Convention on the Rights of the Child and the hotline for online child pornography ("meldpunt kinderpornografie op internet"), have provided statistical data on sexual abuse of children in the circle of trust.

Question 2: Education for children

The reply to question 8 of the GOQ will be examined by the Committee to assess the implementation of Article 6 with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether a special attention is drawn to children's education concerning the risks of sexual abuse of children in the circle of trust, and how children should protect themselves and request help in this regard. If so, please provide details. (**Explanatory Report, paras. 59-62**).

Please see question 8 of the GOQ.

The Dutch Ministry of Security and Justice, together with the EU, subsidizes a hotline for the referral of incidences of child sexual abuse, which is part of the international "In Hope network". This hotline receives actual referrals, but also deals with the education of youngsters on the risks of child sexual abuse. To accomplish this objective the hotline has developed several websites, such as www.helpwanted.nl. This website mainly focuses on children aged 11 to 16. The hotline also has a Youtube channel where preventative videos are posted about grooming and a livestream for children to see and learn.

A public-private partnership called "Digivaardig – digiveilig" organizes and stimulates media education.

The Children's Ombudsman advises parliament and government authorities, and is also responsible for raising awareness about children's rights among adults and children. The Children's Ombudsman operates in the field government in general, but also works with organizations that are active in youth care, education, child care and health care.

The Youth Taskforce, founded in 2013 by Augeo, endeavours to get more attention for child abuse on schools. The main goal is to find an effective approach to child abuse by talking to children and adolescents. The Taskforce also provides thematic lessons on schools to raise awareness and share information about child (sexual) abuse.

The Dutch Ministry of Education, Culture and Science and the Preventive Sexual Intimidation project have provided a sheet on the sexual behaviour of students.

Qpido (Spirit Centre of Expertise), the city of Amsterdam and the vice squad have launched a campaign on sexting and have provided information sessions at schools.

The Centre for School and Safety has developed a tool kit about sexual behaviour in at-risk youngsters.

The Dutch Ministry of Education, Culture and Science has developed a guideline for shaping concrete plans around the theme sexuality and sexual diversity at schools.

Question 3: Recruitment and screening

The reply to question 9 of the GOQ will be examined by the Committee to assess the implementation of **Article 5, para. 3** with respect to the theme of the monitoring round, paying particular attention to the recruitment and screening of persons whose professions involve regular contacts with children.

Please see question 9 of the GOQ.

Question 4: Raising awareness on sexual abuse in the circle of trust

Have policies or strategies been implemented for promoting or conducting awareness-raising campaigns where the focus is directed especially towards the risks and realities of sexual abuse of children in the circle of trust? If so, please specify for whom these campaigns were/are run (**Article 8, Explanatory Report, paras. 65-66**). Please include examples by providing links to what has been developed.

As described in answer 8 of the GOQ, several campaigns, projects and other initiatives have been launched to raise awareness, such as: “Child abuse, what can I do?”, “In Safe Hands”, “Mediawijzer.net”, “Helpwanted.nl” and “the Online Abuse Report Button”.

Another initiative, subsidized by the Dutch government, is “Stop it Now” (SIN). SIN is an anonymous and free self-help hotline for people who are confused about their own sexual feelings towards children, and who need help with preventing actual child sexual abuse. The helpline can mediate in order to enrol people into specific care programs. Parents, children or anyone else who suspects someone in their environment may have those feelings can also contact the hotline (www.stopitnow.nl).

The Dutch police hosts a weekly online “Q&A hour” in which children can chat with police officers (www.vraaghetdepolitie.nl). They can ask questions about their online activity or about special themes such as online abuse. This site is widely promoted and known among a broad public, but it mainly focusses on a young audience.

The Dutch Ministry of Education, Culture and Science has launched a campaign called “Beat the Macho”. This campaign aims to prevent sexual indecent behaviour by raising awareness among 12 to 18 year old boys about (their) stereotypical male behaviour, especially towards women. In cooperation with the We Can Young campaign, a game called “Can you Fix it” has been created, which enables boys to practice with their ability to set boundaries and express preferences. The game establishes which problems boys are facing and what alternatives they see as a result of restrictive stereotypically male behaviour.

Also I refer back to the above-mentioned “Digivaardig – Digiveilig”, as described in the answer to question 2.

Question 5: Specialist training

Have legislative or other measures been taken to ensure that persons, units or services in charge of investigations are trained in dealing with cases where the alleged perpetrator of child sexual abuse is a member of the victim's immediate family or has otherwise been in a recognised position of trust, authority or influence over him or her? (**Article 34 (1), Explanatory Report, paras. 233-235 as well as para. 123**).

As explained in question 8A of the GOQ, the use of the Child Abuse Protocol proved to be effective and has been codified in the Domestic Violence and Child Abuse Protocol Act in 2012. Organizations in the healthcare, youth care, education, childcare, social support and justice sectors must work with this protocol and encourage its use.

Since the reporting code entered into effect in July 2013, its model has been expanded further and now includes a basic model for domestic violence and child abuse. Each support organisation or independent professional has to develop its own reporting code, which must at least include the following five steps:

1. Identifying signals
2. Discussion with a colleague and (if applicable) consulting the "Safe at Home" (AMK) or a professional in the area of injury interpretation
3. Talk with the person(s) involved
4. Assessing the domestic violence or child abuse. Always consult "Safe at Home" in case of doubt
5. Decide independently whether or not to organise help or report

An initiative for an Emergency Room in a hospital (ER) protocol has also been developed, child check. This protocol is aimed at the prevention of child abuse by reporting to the AMK in the following cases: 1. If a parent ends up in the ER as a result of domestic violence 2. If one or both parents end up in the ER as a result of a serious psychiatric disorder 3. If one or both parents end up in the ER as a result of substance abuse.

The Instruction for Criminal Investigation and Prosecution regarding Sexual Abuse (2010A026) contains rules about the investigation and prosecution of sex cases. These rules pertain to the criminal investigation of sexual abuse cases in which perpetrator and victim do not know each other, as well as sexual abuse cases in which they do know each other and may or may not have a relationship of dependence. The Instruction contains standards relating to the professionalism of the police service; it prescribes that the criminal investigation of sex cases should be conducted by detectives who meet a quality standard and implementing standard. The quality standard concerns passing an aptitude test fitting in with the competence profile of '*detective who is mainly responsible for the criminal investigation of sex cases with or without relationships of dependence*', as adopted by the Minister of Security and Justice. The implementing standard means that the detective is charged with the criminal investigation of sex cases at least 24 hours per working week. The detective who meets the implementing standard and the quality standard is a 'qualified vice detective'. The quality of the actions performed in the course of the criminal investigation process, which require specific expertise, is enshrined in the Instruction. It prescribes that the hearing of victims and suspects is conducted by vice detectives, of which at least one must be a 'qualified vice detective'.

Interviewing minors under 12, mentally handicapped and people with a cognitive function disorder, both when *witnesses* and *reporters* of crime in sex cases, should take place in child-friendly rooms and conducted by detectives with the following training '*Interviewing young or mentally handicapped witnesses*'.

Question 6: Participation of children, the private sector, the media and civil society

Replies to questions 4 and 11 of the GOQ will be examined by the Committee to assess the implementation of Article 9 with respect to the theme of the monitoring round. Please therefore only add whether any specific steps have been taken to encourage participation by children, the private sector, the media and/or civil society in the development and implementation of policies, programmes or other initiatives specifically concerning sexual abuse of children in the circle of trust. If so, please specify which and explain how participation takes place. (**Explanatory Report, paras. 67-75**).

This issue has been addressed in the answer to question 4 and 11 of the GOQ.

In addition, Dutch law enforcement has started a project called “Cleaning up Holland”. In this programme, the police and prosecution services work together with relevant partners to combat bad hosters. The phenomenon “bad hosting” includes all forms of cybercrime, such as hosting child pornography or distributing malware. The project’s structure will initially have a national focus, but if an effective coalition is formed this might be useful for an international blueprint. However, this project is still in its starting phase and is closely linked with the “Dutch” notice and takedown model.

Question 7: Preventive intervention programmes or measures

Which measures have been taken to ensure that persons, especially those forming a part of a child’s circle of trust, who fear that they may commit offences of sexual abuse established in accordance with the Convention, have access, where appropriate, to effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed? (**Article 7, Explanatory Report, para. 64**).

As described in the answer to question 10A of the GOQ, psychological/psychiatric health care treatments are available in the Netherlands. I would also like to refer to the earlier mentioned campaigns “Stop it Now” and “Beat the Macho”.

The Dutch police service has developed a model which includes penal and other actions to prevent or stop sexual abuse and sexual exploitation of children. At the moment the ideas are being elaborated in the course of a multi-annual project in which the ministries of Security and Justice and Public Health are implementing the described policies in an action plan entitled “Children Safe” (2012-2016). The prevention of sexual abuse and sexual exploitation of children is part of this action plan, as well as aftercare for victims after sexual abuse, including psychological and other care for abused victims, as well as psychological help for perpetrators in order to prevent recidivism.

In 2012 the Dutch government started a campaign called “A Safe Home is Worth Fighting For” (“Een veilig thuis, daar maak je je toch sterk voor”). The campaign is an amalgamation of the topics of child abuse and domestic violence. People are encouraged to break the circle of violence by seeking advice in case of a suspicion of domestic violence or child abuse at Veilig Thuis: <http://vooreenveiligthuis.nl/campagne>. The message of the campaign is that violence and abuse in the family circle of trust never stops automatically, but only when someone seeks help.

Question 8: Reporting suspicion of sexual abuse

The reply to question 13 of the GOQ will be examined by the Committee to assess the implementation of Article 12 with respect to the theme of the monitoring round. While replying to this question, please therefore only add whether specific legislative or other measures have been taken to encourage reporting of sexual abuse of children in the circle of trust to the competent authorities. (**Explanatory Report, para. 91**).

Please see question 13 of the GOQ.

Question 9: Assistance to and special protection for victims

a. If, and to what extent, does internal law provide for the possibility of removing the victim from his or her family environment when parents or persons who have care of the child are involved in his or her sexual abuse? If internal law so provides:

- are the conditions and duration of such removal to be determined in accordance with the best interests of the child? (**Article 14 (3), Explanatory Report, para. 99**);

As explained in the answer to question 15B of the GOQ, there are several special protection measures for victims, such as: the Temporary Domestic Exclusion Order Act and the Temporary Domestic Exclusion Order Decree, and easily accessible youth care (Youth Care Act). Moreover, the Child Care and Protection Board can request the court to impose a child protection measure, such as: a family supervision order, discharge of parental authority or relief from parental authority.

- have legislative or other measures been taken to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care? (**Article 14 (4), Explanatory Report, para. 100**).

As explained in the answer to question 15A of the GOQ, persons who are close to the victim can get help from Victim Support the Netherlands (Slachtofferhulp Nederland) and from the Rape Centre (Centrum Seksueel Geweld).

b. Does internal law provide that sanctions for offences of child sexual abuse within the circle of trust include denying the perpetrator, temporarily or permanently, the exercise of the professional or voluntary activity involving contact with children in the course of which the offence was committed? (**Article 27 (3) (b), Explanatory Report, para. 187**).

Yes, in the Netherlands we have a certificate of good conduct (“verklaring omtrent het gedrag”, VOG), which is explained in question 9A of the GOQ. A person receives the certificate after it has been established that he or she has no criminal record. However, if they do have a criminal record, the authorities decide whether the offences in question are relevant to the application. Offences considering child sexual abuse will lead to a withdrawal of the VOG for any relevant voluntary or professional activity. If the certificate has already been issued before committing the relevant offence, the VOG is withdrawn.

Question 10: The offence of sexual abuse

The reply to question 16 of the GOQ will be examined by the Committee to assess the implementation of Article 18 with respect to the theme of the monitoring round. The reply to question 1 of the GOQ will also be considered while assessing the situation in the Party with respect to Article 18. While replying to this questionnaire, please therefore only add:

a. what is understood by “intentional conduct” in internal law? (**Explanatory Report, para. 117**);

In Dutch law, intentional conduct means intent. There are three types of intent: purpose, awareness of a high degree of probability and indirect intent.

1. Purpose: this means that the perpetrator’s purpose was to commit the offence.
2. Awareness of a high degree of probability: this means that the perpetrator did not intend to commit the crime, but that it was necessary in order to achieve his or her goal.
3. Indirect intent (the least serious form of intent): this means that the perpetrator did not intend to commit the offence, but that he or she did not care that it happened in the course of his or actions. He or she accepted the significant chance of the offence and accepted it.

Example of description of intent in a section of law:

□ Section 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 **intent to commit indecent acts** with this person or to create an image of a sexual act in which this person is involved, is punishable with a term of imprisonment of at most two years or a fine of the fourth category, if he undertakes any action intended to realize that meeting

b. what is understood by “sexual activities” in internal law? (**Explanatory Report, para. 127**).

As explained in the answer to question 1C of the GOQ, Dutch law does not use the term sexual abuse as such. The law uses the term “indecent behaviour”, which is understood as behaviour contrary to the generally accepted social and ethical accepted standards.

Question 11: Corporate liability

The reply to question 17 of the GOQ will be examined by the Committee to assess the implementation of **Article 26** of the Convention with respect to the theme of the monitoring round. If, in addition, any other measures are foreseen, please specify.

Please see question 17 of the GOQ.

Question 12: Aggravating circumstances

Does internal law ensure that if an offence of sexual abuse, established in accordance with the Convention, is committed by a member of the family, a person cohabiting with the child or a person having abused his or her authority or any other person in the child's circle of trust, that such circumstances may be considered an aggravating factor in the determination of sanctions, in so far as they do not form a part of the constituent elements of the offence? If so, does internal law provide different sanctions depending on whether the relationship of the perpetrator to the child is within the context of family relations or of a professional or voluntary activity (e.g. care providers in institutions, teachers, doctors, etc.)? (**Article 28 (c) and (d), Explanatory Report, paras. 198-199**).

In Section 248 subsection 2, such circumstances as described in the question are considered as an aggravating factor in determining sanctions:

Section 248

o 1. The terms of imprisonment provided for in Sections 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.

o 2. The terms of imprisonment provided for in Sections 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.

o 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 is imposed.

o 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 is imposed.

In Section 249, internal law provides for various sanctions, depending on the type of relationship of the perpetrator to the child:

Section 249

o 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, is punished with a term of imprisonment of at most six years or a fine of the fourth category.

o 2. The following persons are 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.

Question 13: Best interest of the child

a. Please specify whether in situations where the alleged perpetrator is a member of the victim's family or has otherwise been in a recognized position of trust or authority towards him or her, legislative or other measures have been taken to ensure that investigations and criminal proceedings are carried out in the best interests and respecting the rights of the child victim of sexual abuse. (**Article 30, para. 1, Explanatory Report, para. 215**);

I refer back to the earlier mentioned special protection measures for victims of sexual abuse (question 9).

b. The reply to question 22(d) of the GOQ will be examined by the Committee to assess the implementation of **Article 31, para. 4** of the Convention with respect to the theme of the monitoring round;

Please see question 22D of the GOQ.

c. Please also indicate whether internal law provides that sanctions, as a result of offences committed by a person considered to be in the victim's circle of trust, include withdrawal of parental rights or monitoring or supervision of convicted persons (**Article 27, para. 4, Explanatory Report, para. 191**).

I refer to the abovementioned special protection measures for victims of sexual abuse and the aforementioned denouncing or withdrawing of the certificate of good conduct, or VOG (question 9).

Question 14: Child-friendly justice

a. Please specify whether in situations where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognized position of trust or authority towards him or her, a 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 and Explanatory Report, paras. 211-215**);

I refer to the aforementioned special protection measures for victims of sexual abuse.

As explained in question 21G and 23A of the GOQ, there are several proceedings for the best interest of the child victim, such as:

- The possibility to interview minors under the age of 12, disabled persons, or persons with a cognitive functional disorder in relation to sexual offences in a child-friendly room. The interviews are video-taped.
- External experts who are specialized in interviewing minors. In special cases interviews are conducted by a specialized interviewer. Alternatively, these experts give advice, for instance, about the best way to communicate with a minor or about the interview plan. In addition the expert can, if necessary, give advice from the control room.
- Protocol which contains general principles on the treatment of victims in court buildings. For example: separate waiting areas have to be available for victims in order to avoid a confrontation between suspects and victims.

b. Which legislative or other measures been taken to ensure that investigations or prosecution 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, especially in cases where the alleged perpetrator is a member of the victim's immediate family or has otherwise been in a recognized position of trust or authority towards him or her? (**Article 32, Explanatory Report, para. 230**);

As explained in the answer to question 22B of the GOQ, as much evidence as possible will be collected for the purpose of possible ex officio prosecution, if the victim was involved in a serious offence, but refrained from pushing charges.

c. Have legislative or other measures been taken to ensure that a judge, in a criminal trial regarding an offence which can be considered to involve sexual abuse of a child within the circle of trust, may order the hearing to take place without the presence of the public or that the victim may be heard in the courtroom without being present? (**Article 36, para. 2 and Explanatory Report, para. 242**).

Yes, as explained in the answer to question 23C of the GOQ, a hearing can take place without the presence of the public. Alternatively, victims are heard in the courtroom without other people being present. This usually takes places if a victim is very young or if there is the possibility of secondary victimization.