

Netherlands Institute for Human Rights

Report

To the 126th session of the Human Rights Committee on the examination of the 5th periodic report of the Kingdom of The Netherlands

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Introduction

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: the Institute) provides the Human Rights Committee with information on the status of the implementation of the International Covenant on Civil and Political Rights in the Netherlands.

The Institute constitutes the National Human Rights Institution of the Netherlands and has been accredited with A Status since May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out this mandate is reporting to human rights treaty bodies, including the Human Rights Committee.

The Institute will not address all the issues raised in the List of Issues Prior to Reporting in this contribution. This does not necessarily imply that the Institute believes that those issues not addressed are sufficiently observed or that the Committee need not address them.

Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 20, and 26)

Answer to paragraph 5

Discrimination on the grounds of language, ethnic origin and citizenship

Even though discrimination on the basis of language, ethnic origin and citizenship is prohibited in the Netherlands, a recent report shows that still many complaints are registered by the police and other organisations in the Netherlands related to these grounds. In 2018 the police registered 1,442 cases in which origin was the ground for discrimination. These cases made up 43% of all the registered discrimination cases. This is an increase in relation to 2017 in which 39 percent of the registered cases concerned discrimination on the ground of origin. Local anti-discrimination services (*Anti-Discriminatie Voorzieningen (ADV)*) also registered an increase. The ADV's received 1,949 complaints related to origin, which is 45% of the total and an increase of 7% as compared to 2017.¹ As noted in the report, the data concern registered complaints only and not cases in which discrimination was established. One explanation for the increase in registrations is that people experience more discrimination. This does not necessarily mean there is an increase in discrimination, or that conclusions can be drawn on the effectiveness of the procedures.

In 2018, the Institute received 636 questions related to discrimination on the basis of race which also includes ethnicity and origin. Furthermore, the Institute received 94 requests for an opinion in cases relating to discrimination based on race, which resulted in 28 opinions. In 13 cases the Institute concluded that discrimination on the basis of race had occurred.² The Institute itself monitors the follow-up of its opinions by requesting both parties for information. On average, in 77% of the cases in which discrimination was established, follow-up measures were taken by the respondent party. These can include measures at the individual level and / or measures of a general nature.

Suggestion for a question:

How does the government monitor the effectiveness of the laws to combat discrimination?

Racist motivation as an aggravating circumstance under criminal law

When someone is prosecuted for an offence that also includes discrimination, the prosecutor counts the discriminatory aspect as an aggravating factor when deciding what sentence to recommend.

¹ Ministry of Interior Affairs and Kingdom Relations, the Police, Art. 1, *Discrimination numbers in 2018. A report about registered discriminatory incidents by the police, and registrations by anti-discrimination services and other organisations*. [Discriminatiecijfers in 2018. Een rapport over registraties van discriminatie-incidenten door de politie, en meldingen bij antidiscriminatievoorzieningen en andere organisaties in Nederland], 2018.

² Netherlands Institute for Human Rights, *Monitor of discrimination cases 2018* [Monitor Discriminatiezaken 2018], 2018.

An analysis of cases brought before courts that concern violence against mosques indicates that judges often do not consider the potential discriminatory motivations. The researches hold that in most of these cases discrimination could have played a role, which should have been examined by the court.³

The research focussed on violence against mosques. It cannot be ruled out that the same applies in cases that concern for example violence against Jews or LGBTI people.

Suggestion for a question:

How will the government ensure that discrimination as an aggravating circumstance is effectively assessed and applied by criminal courts?

Answer to paragraph 6

Hate crimes

The Institute has noticed that religious practices such as circumcision and ritual slaughter are less accepted in society. The lack of respect and tolerance towards religious persons, such as Muslims and Jews, has led to verbal and physical violence. For example, persons are harassed for wearing religious clothing in public. As a consequence, religious groups feel unsafe within society.⁴

Suggestion for a question:

What measures will the government take to ensure persons can practice their religion in society without being a target for verbal and/or physical violence?

Answer to paragraph 8

Discrimination in recruitment and selection practices

28% of the reports on discrimination that were registered by the ADV's related to the labour market. Most reports related to the ground origin and almost half of these concerned recruitment and selection practices. In these cases people suspected that discrimination played a role in the rejection of their job application.⁵ The Institute dealt with 12 requests in 2018 that related to discrimination on the basis of race in recruitment and selection practices.

At the beginning of 2018, a television programme conducted its own research into discrimination in recruitment procedures. Journalists posing as employers contacted employment agencies asking for employees for a temporary job. They claimed to have had negative experiences with employees of Moroccan, Surinamese or Turkish descent and asked the employment agency to take that into account. 47% of the agencies answered that they would.⁶

³ I. van der Valk (ed.), *Targeting of Mosques* [Mikpunt Moskee], Amsterdam: Brave new books, 2019.

⁴ Netherlands Institute for Human Rights, *Annual report of 2017, Human Rights in the Netherlands* [Jaarlijkse rapportage 2017. Mensenrechten in Nederland], 2018.

⁵ Ministry of Interior Affairs and Kingdom Relations et al., *supra* note 1.

⁶ Discriminatie door uitzendbureaus (www.radar.avrotros.nl).

The government recently presented an Implementation-plan concerning labour market discrimination (*Implementatieplan Arbeidmarktdiscriminatie 2018-2021*). It is positive that the plan pays attention to groups that are often confronted with discrimination and proposes measures to combat discrimination of these groups. However, there is no definition of concrete targets and information on how the proposed projects will help to reach the targets.

Even though labour discrimination has been on the political agenda for a long time and many different measures have been applied, it is unclear how the measures have led to better access to the labour market for different groups. Therefore, the Institute advises the government to formulate clear targets that focus on combating labour discrimination in general and for specific groups. Furthermore, it is important to not only pay attention to registered discrimination but also to actively prevent and combat discrimination. Many victims of discrimination are not aware they are being discriminated because they do not know the real reason for their rejection. The plan only proposes measures to combat discrimination by recruitment agencies, but not for other branches in the private sector.⁷ Also, further measures should be taken to eliminate stereotypes and prejudices in order to prevent discrimination.

Suggestion for a question:

What measures will the government implement to prevent and combat labour market discrimination in the private sector?

Persons with disabilities and the labour market

After the introduction of the Participation Act in 2015, the government and other actors (employers organizations, the Employee Insurance Agency and municipal employment agencies) have developed policies and laws to include persons with disabilities into the regular labour market. Despite these efforts, the participation rate of persons with disabilities in the labour market has not increased since 2012.⁸ For persons who used to do sheltered work, the chances of finding a job have even decreased from 50% to 30%.⁹

As an outcome of the so-called Social Agreement 2013 between employers, trade unions and the government, various support measures were introduced. These include a wage cost subsidy, an agreement to create 125,000 jobs and the introduction of a quota system. These measures have partly succeeded. In the first years following the Agreement, private sector employers have created more than their share of jobs, whereas the State itself as an employer has been unable to meet the targets.¹⁰ However, the percentage of persons with disabilities with paid work remains lower than that of the general working population. In 2016, 28% of the general working population did not have paid work. For persons with disabilities these percentages were significantly higher: 47% for persons with a chronic

⁷ Netherlands Institute for Human Rights, *Letter to parliament with a reaction on the implementation-plan labour market discrimination*, 30 November 2018.

⁸ Netherlands Institute for Human Rights, *Insight in Inclusion II* [Inzicht in Inclusie II], 2018; Netherlands Institute for Human Rights, *Insight in Inclusion* [Inzicht in Inclusie], 2016.

⁹ Invoeren Participatiewet en afsluiten sociale werkvoorziening heeft baankansen Wsw-doelgroep verminderd (www.scp.nl).

¹⁰ M. Dutij et al., *Financial barriers on the way to more participation* [Financiële drempels op weg naar meer participatie], Regioplan, 2017.

illness, 64% for persons with a physical disability and 78% for persons with a severe psychosocial disability.¹¹

The support measures for persons with disabilities are often complicated and bureaucratic and deter some employers from recruiting persons with disabilities.¹² The government and many actors involved have acknowledged the lack of success of the current approach. In September 2018, the government announced an adaptation of existing provisions and the introduction of new measures with the aim to increase labour participation.¹³

Suggestion for a question:

What measures will the government take to increase the labour participation rate of persons with disabilities?

Violence against women, including domestic violence (arts. 2-3, 7 and 26)

Answer to paragraph 9

Domestic violence

Research has indicated that over a five-year period 747,000 adults have experienced some incident involving physical and/or sexual violence in the home. 20% of the victims experienced structural domestic violence.¹⁴ Structural domestic violence affects mainly women.

The Institute appreciates the strategy of cooperation between various ministries that are involved in combating domestic violence and violence against children. It is also positive that there is a programme Violence does not belong at home.¹⁵ However, the programme does not identify clear goals or benchmarks that can be monitored.¹⁶

Suggestion for a question:

How will the government monitor the progress it has made in combating and preventing domestic violence?

¹¹ Statistics Netherlands, *Measurement of CRPD indicators 2016* [Meting IVRPH-indicatoren 2016], 2018; NIVEL, *Measurement of CRPD indicators 2012-2016* [Meting indicatoren voor monitoring van het VN Verdrag voor de rechten van mensen met een handicap; stand van zaken 2012-2016 in Nederland], Utrecht: 2018.

¹² Netherlands Institute for Human Rights, *Report of the Institute on the CRPD in the Netherlands* [VN-verdrag handicap in Nederland 2017], 2017.

¹³ *Kamerstukken II 2017/18*, 34352, nr. 115.

¹⁴ Research and Documentation Centre, *The prevalence of domestic violence and child maltreatment in the Netherlands* [De prevalentie van huiselijk geweld en kindermishandeling in Nederland], 2019.

¹⁵ Ministry of Justice and Security, Ministry of Health, Welfare and Sport, Association of Netherlands Municipalities, *Violence does not belong at home, Dealing with domestic violence and violence against children* [Geweld hoort nergens thuis. Aanpak huiselijk geweld en kindermishandeling], 2018.

¹⁶ See more extensively: Netherlands Institute for Human Rights, *Written contribution to the group of experts on action against violence against women and domestic violence*, November 2018.

Domestic violence in the Caribbean Netherlands

The scope and severity of domestic violence against women and girls in the Caribbean Netherlands are significant. Poverty is rampant among the inhabitants of the islands. Women often depend on the income of their partner and/or maintenance money paid by their ex-partner. This financial dependency prevents them from escaping the situation of violence. Further, facilities to prevent violence and to protect and support victims are not available. Although solid initial steps have been taken to tackle violence against women in the Caribbean Netherlands, more is necessary.

Suggestion for a question:

What measures does the government take to address violence against women in the Caribbean part of the Netherlands?

Prevention and access to support services

The programme Violence does not belong at home does not address the prevention of violence against women and does not apply a gender perspective. More efforts should be made to address the underlying causes of violence against women, in particular the unequal position of women in society.

Municipalities are responsible for preventing domestic violence and providing protection and support to victims. This allows for individualised approaches, which is a positive development. However, in practice, issues arise concerning specialist care, support services, shelter and monitoring of support services.

Many women who are victims of violence do not receive all the information necessary on support services and legal measures available to them. Many do not know where to go for support and the necessary information is not always available to them in a language they understand. Information is available on websites and in brochures of for instance the police, shelters and Safe at Home support services. However, not all information is available in a language victims understand. Also, it requires that victims know how to find this information online or that they find support services themselves. Information should take into account cultural differences. Many victims do not easily talk about their feelings. Further, victims may find it difficult to discuss sexual violence.¹⁷

Suggestion for a question:

What measures will the government take to prevent violence against women?

What measures will the government take to ensure that women victims of violence receive culturally sensitive information on support services and legal measures available to them and in a language they understand?

Access to shelters

Municipalities are responsible for providing shelter to victims of domestic violence. Shelter organisations report that there is insufficient capacity to admit all victims. They make a

¹⁷ Fonds Slachtofferhulp, *Victims in Modern Society*, 2018.

risk assessment of situations that women are in. Only women who are at the most serious risk are admitted. Women who are not admitted to the shelter are offered ambulatory care, which is by its nature less intensive and may not always be adequate.

Municipalities have to monitor the functioning of shelters and should ensure sufficient capacity and good quality of its services. A report by the National Ombudsman demonstrated that many municipalities do not fulfil their monitoring role properly, possibly at the cost of the quality of support and protection services.¹⁸

Some issues require central coordination because they surpass the local level. An example is that victims in shelters who have debts can often not move to another municipality because of their debts and because debt assistance is limited to the municipality they live in. Limited social housing is available so the circulation in shelters is hampered.¹⁹ Because municipalities have different policies and practices, too often much time passes before victims can move to another region if their safety so demands. Meanwhile they do not receive the care they need.

Victims in shelters need more assistance to deal with the complexity and number of regulations applicable. It takes a long time and involves a lot of bureaucracy to clarify the income of the victim and meanwhile her debt increases.²⁰

A follow-up report by the National Ombudsman has indicated that some progress has been made. Unfortunately, cooperation between municipalities has not improved sufficiently and issues in relation to housing remain a problem.²¹

Suggestion for a question:

How does the government guarantee appropriate, easily accessible shelter in sufficient numbers?

Counter-terrorism measures (arts. 4, 7, 9-10, 14, 17-19 and 26)

Answer to paragraph 10

Extension of pre-trial detention without serious indications of guilt

Pre-trial detention may be ordered for certain crimes, provided that there are serious indications (*ernstige bezwaren*) and grounds for such detention. For terrorist crimes, detention on remand can be ordered without such serious indications. In such cases, reasonable suspicion suffices for detention on remand of 14 days. A new Bill on Strengthening Criminal-Law Approach to Countering Terrorism allows judges to extend pre-trial detention by another 30 days without serious indications for a selected number of terrorist offences. This means that detention can amount to 44 days in total, without serious indications that the suspect committed the crime in question.

¹⁸ National Ombudsman, *Investigation into bottlenecks in women's shelters* [Vrouwen in de knel. Een onderzoek naar knelpunten in de vrouwenopvang], 2017.

¹⁹ National Ombudsman, *supra* note 18.

²⁰ *Ibid.*

²¹ National Ombudsman, *Investigation into bottlenecks in women's shelters: a follow-up* [Vrouwen in de knel, het vervolg], 14 May 2019.

In its legislative advice on the Bill, the Council for the Judiciary pointed to the risk that detention on remand and subsequent extension of pre-trial detention may be ordered based upon information that a judge cannot substantially verify because of state secrets.²² This dilemma will make it very difficult for a judge to make a decision with such serious consequences, like detention.

Suggestion for a question:

How will the government ensure that there can be meaningful judicial review of extension of pre-trial detention in cases where the detention is based on classified information?

Revocation of Dutch nationality in the interests of national security

The Minister of Justice can revoke Dutch nationality in the interests of national security on the basis of the Netherlands Nationality Act. In order to avoid statelessness, this is allowed only in case the person involved has dual nationality. The minister is required to weigh individual circumstances against the interests of national security. However, the criteria and circumstances to be taken into consideration and how these are weighed against the interests of national security should be included in an Executive Order (*AMvB*), which has not yet been published. Moreover, it is unclear how the individual affected is informed of this decision. Lastly, the elimination of the objection stage also makes it impossible to object to the decision before it goes to automatic appeal, reducing the possibilities to object against the decision.

Suggestion for a question:

To what extent does the Dutch government ascertain whether the person involved constitutes the risk of being tortured or treated inhumanely, before revocation of their Dutch nationality?

Answer to paragraph 11

Intelligence sharing

Dutch intelligence and security services can share data with foreign intelligence services for counter-terrorism purposes and other reasons related to national security. While often necessary for the work of the services, this can in practice be controversial if the partner intelligence service employs a lower level of data protection, or when the data are used for the purposes of targeting individuals for persecution. Under the new Intelligence and Security Services Act, the Dutch intelligence and security services are obliged to draw up 'weighing reports' outlining the relevance of the cooperation to national security interests and the services' work, the possible risks associated with cooperation and intelligence sharing and ways to mitigate or avoid those risks.²³ A 2019 report by the oversight committee on the intelligence and security services has indicated that a large number of

²² Council for the Judiciary, *Advice on the Strengthening Criminal-Law Approach to Countering Terrorism Bill*, 23 January 2017, 2017/2.

²³ Article 88(3), Intelligence and Security Services Act 2017.

these weighing reports do not conform to what is required by the Act.²⁴ In particular, there is a lack of information on the level of data protection, and the powers of the respective partners under domestic law. Moreover, the reports do not clearly weigh the benefits of a particular partnership against the risks, in particular the human rights risks, nor do some of the reports clearly outline measures that could be taken to avoid or mitigate these risks.²⁵

Suggestion for a question:

How will the government ensure that there is adequate monitoring of possible human rights and data protection risks of intelligence sharing with foreign intelligence and security services?

Liberty and security of persons and treatment of persons deprived of their liberty (arts. 7 and 9-10)

Answer to paragraph 15

The role of lawyers during interrogations

As from 2016, a lawyer may be present during police interrogations, be it under strict conditions. They can oversee the interrogation, are allowed to advise their client and can intervene when necessary, for example when undue pressure is exerted by the police officer. On the other hand, however, lawyers can be ordered to leave the interrogation room when the assistant public prosecutor, in practice often a police officer, considers their behaviour in conflict with the law.

A recent evaluation of the right to interrogation aid has indicated that lawyers exercise restraint during interrogations. Nevertheless, lawyers do influence interrogations by offering support to suspects and by serving as a check on the interrogation and the police officers conducting the interrogation. Occasionally a lawyer was ordered to leave the interrogation room, but there does not seem to be a structural problem in this regard. Notwithstanding, lawyers point out there is a difference in the way interrogators act towards them and the possibilities they have to exercise their powers. Lawyers suggested that clearer rules, especially for unexperienced lawyers and interrogators, could help to ensure proper legal assistance in all cases.²⁶

Suggestion for a question:

How will the government ensure that both lawyers and police officers are aware of the rules and conditions that apply during interrogations so that the same rules are applied in all cases?

²⁴ Oversight Committee on the Intelligence and Security Services (CTIVD), Toezichtsrapport nr. 60 over de wegingsnotities van de AIVD en de MIVD voor de internationale samenwerking met de Counter Terrorism Group- en sigint-partners, 6 February 2019 (*in Dutch*).

²⁵ CTIVD Report, Appendix II, paras. 1.1 and 2.1.

²⁶ Research and Documentation Centre, *The right to interrogation aid, a long-term monitor. First edition* [Langetermijnmonitor: raadsman bij verhoor], 2018.

Answer to paragraph 16

Reasoning of judicial decisions ordering pre-trial detention

In 2017, the Institute published a research about the reasoning of court orders on pre-trial detention.²⁷ Over 300 files were analysed, of four different district courts and two courts of appeal. It showed that for most courts, written reasoning of its decisions barely existed. One court of appeal was the (positive) exception: it initiated a pilot to improve its written reasoning, which clearly led to better motivated court orders.

The house of representatives passed a motion that calls on judges to improve the reasoning of court orders on pre-trial detention.²⁸ Furthermore, the judiciary has published its Professional Standards in 2016 in which it acknowledged the need to give reasons for the orders on pre-trial detention. It embraced the criticism and recognised the main findings.²⁹ However, as most of these court orders are not made public - or at least not easily accessible online - it is unknown to what extent actual improvements were made.

Suggestion for a question:

Can the government provide information on the improvements that are made in relation to the reasoning of court-orders on pre-trial detention?

Non-custodial alternatives

In the proposed reform of the Code of Criminal Procedure the alternatives for pre-trial detention are explicitly laid down. However, the number of criminal offences for which a judge can order pre-trial detention has increased and in the new Code of Criminal Procedure the number will increase even more.

In relation to minors, a judge can order placement in pre-trial detention. The applicable rules are mostly the same as the rules for adults. However, when it concerns a minor a judge must always check whether pre-trial detention can be suspended by imposing an alternative measure, such as a restraining order or a duty to report. Multiple concerns have been raised in relation to this system of imposing non-custodial alternatives.³⁰ Furthermore, research about the reasons for imposing such an alternative measure has indicated that certain groups have less chance to get an alternative measure. For example, minors with a non-western background or minors with a light intellectual disability.³¹

²⁷ Netherlands Institute for Human Rights, *Chapter and verse. Research into the reasoning of pre-trial detention* [Tekst en uitleg. Onderzoek naar de motivering van voorlopige hechtenis], March 2017.

²⁸ Netherlands Institute for Human Rights, *supra note 4*.

²⁹ Afspraken tussen rechters moeten onderbouwing voorlopige hechtenis verbeteren (www.rechtspraak.nl)

³⁰ Y. N. van den Brink, *Pre-trial detention in Dutch juvenile criminal law: law and practice in light of international and European children- and human rights* [Voorlopige hechtenis in het Nederlandse jeugdstrafrecht: wet en praktijk in het licht van internationale en Europese kinder- en Mensenrechten], 2018.

³¹ Y.N. van den Brink (et al.), *Pre-trial detention of juveniles in practice. An explorative and quantitative research of judicial decisions and population characteristics* [Voorlopige hechtenis van

Suggestion for a question:

What measures will the government take to ensure non-custodial alternatives are applied as much as possible, especially when it concerns minors?

Answer to paragraph 17

Border detention of migrants

Foreign nationals who enter the Netherlands through an airport or seaport without correct travel documents or sufficient means of support are not granted access to the Netherlands. Some of them are asylum seekers who ask for protection in the Netherlands. In order to prevent them from entering the Netherlands, they are detained in the Schiphol Criminal Justice Complex, known as border detention.

The Institute has investigated the compatibility of this detention with human rights standards.³² According to these standards, detention is allowed only if no other, less drastic means are available and detention is absolutely necessary. In order to make this assessment each individual case requires a balancing of interests. In practice, all asylum seekers who ask for protection at the border are as a rule detained. There is no balancing of interests prior to imposition of the detention measure. As a consequence the human rights of these asylum seekers are at stake.

Suggestion for a question:

How will the government ensure a balancing of interests in each individual case before imposing detention on asylum seekers arriving at Schiphol?

Repatriation and Detention of Aliens Act

In June 2018 the House of Representatives accepted the Repatriation and Detention of Aliens Act (*Wet terugkeer en vreemdelingenbewing*). At the moment of writing the present report (May 2019), the Senate is discussing the Bill and no date has yet been set for the final vote.

The Institute is positive about the government's decision to create a regime for alien detention that is separate from the criminal regime it is currently part of. However, it is concerned about the fact that the Bill creates two regimes for detention. Both regimes have different degrees of restrictions to which aliens and asylum seekers are subjected. The less restrictive regime (*verblijfsregime*) should be the standard. The more restrictive regime (*beheersregime*) can be used when the migrant's behaviour poses a risk for an institution's order and security situation.

jeugdigen in uitvoering. Een exploratief kwantitatief onderzoek naar rechterlijke beslissingen en populatiekenmerken], 2017.

³² Netherlands Institute for Human Rights, *Advice: Crossing the border. Border detention of asylum seekers in the light of human rights standards* [Advies: Over de grens. Grensdetentie van asielzoekers in het licht van mensenrechtelijke normen], May 2014.

The Bill also notes that all migrants who are placed in detention will be placed in the more restrictive regime upon arrival for a maximum period of two weeks. During this time, it will be decided in which regime the migrant should be placed in for the longer term. This is an unnecessary measure that severely restricts the freedom of newly arriving migrants. This is especially true for migrants detained in border detention, as their stay in detention will mostly not exceed two weeks. As a consequence, there is a risk that they spend two weeks in the restrictive regime .

Suggestion for a question:

Will the government adjust its plans to place all new arrivals in the more restrictive detention regime to guarantee that alien detention is free of excessive restrictions?

Solitary confinement of migrants

The abovementioned Repatriation and Detention of Aliens Act will allow for isolation used as a disciplinary measure in alien detention. The measure can also be imposed on minors. The isolation is limited to a maximum duration of two weeks, with the possibility of extension of one week at a time. Suggested amendments to only allow isolation for reasons of maintaining public order and security - and not as a disciplinary measure - and excluding the possibility to place minors in isolation were not accepted by the House of Representatives.

Suggestion for question:

What measures will the government take to guarantee that solitary confinement will be applied only as a measure of last resort?

Answer to paragraph 18

Review mechanism

In the Netherlands, a life sentence can be imposed in the case of a conviction for murder. Reduction is possible only when the minister of Justice and Security grants a pardon. As in practice such a pardon is never granted, the Supreme Court ruled in 2016 that the system appeared to be a violation of the prohibition of ill-treatment. This ruling followed the European Court of Human Rights (hereinafter: ECtHR)' case-law, to the effect that life prisoners should have a realistic opportunity to rehabilitate themselves in order to have a hope of release.³³ A new pardoning system introduced an advisory committee that automatically reviews the situation of life sentenced prisoners after 25 years of detention.³⁴ The advisory committee advises the minister whether the detainee should be allowed to start reintegration activities. It is then up to the minister to decide whether to grant a pardon.

According to the Institute, the new system does not fully comply with the prohibition of ill-treatment. Although the automatic review of continuation of the life sentence is positive,

³³ Supreme Court, 5 July 2017, ECLI:HR:2016:1325.

³⁴ Decree Advisory Committee Life Sentences [*Besluit Adviescollege levenslanggestraften*], *Stcrt.* 2017, 32577.

the final decision is not taken by an independent judicial body. The minister may ignore the committee's advice and decide against granting a pardon. In addition, the new system does not set a deadline for decisions; nor does it provide a timeframe for subsequent reviews if a pardon is not granted.

According to the Institute, this decision should be taken by an independent judge to ensure that a person's freedom and right to hope of release do not depend on political circumstances at a particular time.

Suggestion for a question:

Will the government introduce the possibility to allow an independent judge to decide about the continuation of the execution of a life sentence after a set period of time, and during regular interviews after the first review?

Reintegration activities

The lack of reintegration activities offered to life prisoners during the first 25 years of their sentence has been criticised.³⁵ ECtHR case-law stipulates that rehabilitation activities should start in the period before the first review in order for life prisoners to have a realistic opportunity for release. Under the new system the advisory committee advises the minister whether the prisoner can start reintegration activities when 25 years of the sentence have passed. Two years later the minister decides whether to grant a pardon. It is questionable whether this period of two years in which the life prisoner can participate in reintegration activities will be sufficient to offer a realistic opportunity for release.

Suggestion for a question:

Will the government allow life prisoners to start reintegration activities during the first 25 years of their sentence in order to give them a more realistic opportunity for release?

Answer to paragraph 20

Solitary confinement of patients in care facilities

Since 2002, psychiatric units have attempted to limit the frequency and duration of solitary confinement. In 2004, the sector's representative body³⁶ announced the intention of achieving a 10% reduction in the use of such measures. Between 2006 and 2012, the Ministry of Health, Welfare and Sport provided additional funding to support the pursuit of this aim.

The Health and Youth Care Inspectorate concluded in 2015 that there was a reduction of solitary confinement in care facilities compared to 2011, but that the pace at which

³⁵ The Council for the Administration of Criminal Justice and Protection of Juveniles, *Recommendation on proposals to change the execution of life sentences* [Advies inzake voornemens tot wijziging van de tenuitvoerlegging van de levenslange gevangenisstraf], 2016.

³⁶ GGZ Nederland [*Dutch Association of Psychosocial Health and Addiction Care*]

improvements are made differ greatly between care facilities. There are still facilities where patients are isolated for a long period of time.³⁷

Compulsory mental health care

In January 2018 Parliament passed the Compulsory Mental Health Care Bill and Care and Compulsion Bill.³⁸ The government has drafted decrees that regulate the use of involuntary measures in residential care and in ambulatory care, such as the use of restraint and home detention.³⁹ In a legislative advice on the decrees and on the Act on Compulsory Mental Healthcare, the Institute expressed its concern regarding involuntary measures at home. The use of restraint at home could deteriorate the situation of the patient and escalate into situations of inhuman or degrading treatment.⁴⁰ Furthermore, the Institute raised the issue of monitoring of outpatient care .

Suggestion for a question:

How can the government guarantee proper oversight while compulsory health care is applied in ambulatory care?

Answer to paragraph 21

Detention conditions in St. Maarten

The ECtHR gave its judgment in the case *Corallo v. the Netherlands* in October 2018. The case concerned the detention conditions at Philipsburg Police Station in St. Maarten. The Court found that the applicant was held there in degrading circumstances and thus in violation of art. 3 of the Convention. The Institute sent a letter to the Committee of Ministers of the Council of Europe in which it expressed its concerns about the detention conditions in St. Maarten and recommended the execution of the judgement to be subjected to enhanced supervision. The government has presented an action plan to the Committee of Ministers of the Council of Europe on the execution of the judgement which is now being reviewed by the Committee of Ministers.⁴¹ The action plan contains the measures taken as a response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 2015. Furthermore, the plan contains envisaged measures, such as an overall renovation/rebuilding project of the detention facilities in St. Maarten. The Institute will closely follow the progress made in relation to the detention conditions in St. Maarten and await the final decision by the Committee of Ministers.

³⁷ The Health and Youth Care Inspectorate, *Care facilities invest in reducing solitary confinement; further action needed to reach ambitions* [GGZ-instellingen investeren in terugdringen van separatie; verdere acties nodig om ambities te halen], 2015.

³⁸ These will enter into force on 1 January 2020.

³⁹ Besluit zorg en dwang psychogeriatrische en verstandelijk gehandicapte cliënten, Besluit verplichte geestelijke gezondheidszorg en Besluit forensische zorg.

⁴⁰ Netherlands Institute for Human Rights, *Advice on the observation measure* [Advies over observatiemaatregel zoals voorgesteld in de tweede nota van wijziging voorstel Wet verplichte ggz], 20 January 2017 and *Advice of the Institute on Decrees concerning involuntary measures* [Reactie van College internetconsultatie Besluit zorg en dwang, verplichte ggz en forensische zorg], 14 February 2018.

⁴¹ Committee of Ministers, *Communication from the Netherlands concerning the case of Corallo v. the Netherlands* (Application No. 29593/17), DH-DD(2019)410, April 2019.

Elimination of slavery, servitude and trafficking in persons (art. 8)

Answer to paragraph 22

Labour exploitation and exploitation of criminal activities

In the period 2013-2017, the National coordination centre against trafficking in human beings (CoMensha) registered 1,323 victims of labour exploitation and exploitation of criminal activities. A quarter of the victims of labour exploitation mentioned that recruitment agencies were involved.⁴² It is estimated that only one in five victims of trafficking is registered. As the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (hereafter: National Rapporteur) underlines, registration is crucial for effective preventive measures, the protection of victims and the prosecution of offenders.⁴³

As far as policy to prevent and combat labour exploitation is concerned, the focus is on (criminal) investigation. However, the number of cases brought before a court is very low: about 23 annually. Only in approximately 50% of these cases, a perpetrator is convicted.⁴⁴ The National Rapporteur has expressed his concern about the low rate of prosecutions and convictions, which has decreased over the years. There are no reasons to assume that this is due to a decrease in the number of victims and perpetrators.⁴⁵ A positive development is the attention for labour exploitation in the Integral Programme Together against human trafficking.⁴⁶ The programme clearly articulates the intention to implement measures that will help with assisting and supporting victims of labour exploitation.

Suggestion for a question:

What measures will the government take to increase the prosecution of offenders that participated in labour exploitation?

Underreporting of trafficking in persons

Over the last few years, there has been a decline in the number of registered victims of trafficking in human beings. There is a general consensus that this does not reflect an actual decline in the number of victims,⁴⁷ but is rather a consequence of - inter alia -

⁴² National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, *Victim monitor trafficking in human beings 2013-2017* [Slachtoffermonitor mensenhandel 2013-2017], October 2018.

⁴³ National Rapporteur, *supra* note 42, p. 125.

⁴⁴ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, *Offender monitor trafficking in human beings 2013-2017* [Dadermonitor Mensenhandel 2013-2017], 2019.

⁴⁵ National Rapporteur, *supra* note 44, p. 184.

⁴⁶ *Together against human trafficking. Integral Program to tackle sexual, labour and criminal exploitation* [Samen tegen mensenhandel. Integraal Programma-aanpak seksuele uitbuiting, arbeidsuitbuiting en criminele uitbuiting], November 2018.

⁴⁷ An estimation research by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in 2018 concludes that, approximately between 5,000 and 7,500 people are victims of human trafficking per year. See: National Rapporteur, *supra* note 42.

reorganisations and a shift in focus towards other issues by the police.⁴⁸ The former Minister of Security and Justice has underlined that renewed investment is needed to combat trafficking in human beings.⁴⁹ The Institute underlines the importance of reprioritisation of this issue, in order to reach more realistic numbers of victim registration. Furthermore, thresholds for victims to report trafficking to the police should be removed.

An obstacle to effective combating of trafficking is the (lack of) sharing of information between organisations and sectors. Different organisations may be involved, such as organisations in the care sector, monitoring bodies, investigatory authorities and municipalities. For privacy reasons, the possibilities to share information on victims are restricted. Two district courts ruled that the current legal basis is insufficient for such sharing of information.⁵⁰ This implies that a new legal basis is required, with sufficient safeguards to protect the privacy of the victims involved and at the same time allowing for more effective measures against trafficking in human beings through exchange of information. The National Rapporteur repeatedly recommended the government to create such a legal basis.⁵¹ A recent draft framework Bill on the exchange of information lacks fundamental safeguards to protect the privacy of those involved and is therefore not a proper legal basis for such information exchange.⁵²

Suggestion for a question:

What specific measures will the government take to facilitate different organisations and sectors to exchange relevant information regarding victims of trafficking in the future, while respecting their right to privacy in law and practice?

Exploitation of children

On average, almost half of the registered victims of human trafficking is younger than 23 years old, of which 22,9 percent is a minor. Minors and adolescents are more often the victim of human trafficking within the Netherlands, than of transboundary human trafficking. Furthermore, minors are more often the victim of sexual exploitation than labour or criminal exploitation.⁵³ The Institute welcomes the measures laid down in the programme Together against human trafficking that focus on the prevention of exploitation of children. It is worrying however that the registration of minors that are the victim of exploitation or human trafficking is less complete than the registration of other victims. In almost half of the cases it is not possible to determine what form of

⁴⁸ See letter to parliament by the Minister of Security and Justice on Investment in combating trafficking in human beings of 29 November 2016.

⁴⁹ Ibid.

⁵⁰ District court of Amsterdam, 1 August 2017, ECLI:NL:RBAMS:2017:5516 and district court of The Hague, 8 March 2018, ECLI:NL:RBDHA:2018:2682.

⁵¹ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in 2017 concludes that on average, approximately 6,250 people are victims of human trafficking per year. See: National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (2017), *Slachtoffermonitor mensenhandel 2012-2016* [Victim monitor trafficking in human beings 2012-2016], page 101.

⁵² Netherlands Institute for Human Rights, *Advise on the draft Bill concerning data processing by collaborating entities* [Advies conceptwetsvoorstel gegevensverwerking door samenwerkingsverbanden], September 2018.

⁵³ National Rapporteur, *supra* note 42.

exploitation they are the victim of.⁵⁴ This makes it difficult to determine how many children are the victim of labour or criminal exploitation.

Suggestion for a question:

What measures will the government take to improve the registration of child victims so that a more complete picture will be obtained about the forms of exploitation minors are the victim of?

Freedom of movement (arts. 12 and 26)

Answer to paragraph 23

The goal of the Urban Areas (Special Measures) Act is to combat segregation in order to protect the liveability and security in certain areas. Municipalities can refuse certain groups of persons who want to live in a specific area (section 8). According to the Institute, the Act is stigmatising, discriminating, disproportionate and not effectively reviewed. Furthermore, research has demonstrated that the Act does indeed affect certain people disproportionately and that it is not effectively reducing unsafety and increasing liveability.⁵⁵

In 2016 the Act has been amended. The amended law enables municipalities to screen persons seeking social housing on possible anti-social or criminal behaviour by inspecting police records or by requiring a Certificate of Conduct. According to the Institute, refusing a housing permit based on police records constitutes a restriction on the right to choose one's residence (article 12 ICCPR) and the right to protection of privacy (article 17 ICCPR).

As the government states in its report, the Grand Chamber of the ECtHR has ruled that the measure referred to in section 8 of the Act is not in violation of article 2, protocol 4, of the Convention. This judgment was not unanimous. Five judges did not agree with the ruling and gave dissenting opinions in which the potential discriminatory and stigmatising effects of the Act were criticised.⁵⁶

The Institute remains concerned about the potential discriminatory and stigmatising effects of the Act, especially when it concerns groups in society that are in a vulnerable position.

Suggestion for a question:

How will the government ensure that the Act does not discriminate against persons belonging to groups in society that are in a vulnerable position?

⁵⁴ National Rapporteur, *supra* note 42.

⁵⁵ Netherlands Institute for Human Rights, *Poverty, Social Exclusion and human rights. Human rights in the Netherlands, annual report 2016, 2017.*

⁵⁶ European Court of Human Rights, application no. 43494/09 [*Garib v. The Netherlands*], 6 November 2017.

Access to justice and fair trial (arts. 2, 14 and 24)

Answer to paragraph 25

Access to legal aid

The number of persons that decide not to bring their case before a judge is rising. One of the reasons is that they think starting a procedure is too complicated and that the costs are too high. Another reason is that they are not familiar with legal procedures and feel insecure about the result of the procedure.⁵⁷ There is a risk that the proposed reform of the legal aid system will strengthen this trend.

Recently, the government presented the outlines for a new legal aid system.⁵⁸ These plans contain far-reaching measures, such as competitive tendering for subsidised legal aid and the creation of an advisory body that can review which cases qualify for subsidised legal aid. Especially persons in a vulnerable position may be affected by these plans. Their access to justice is at risk.

Suggestion for a question:

In light of the proposed new legal aid system, what will the government do to ensure that access to justice is guaranteed for all persons, especially persons in a more vulnerable position?

Legal-aid-packages

One of the objectives of the abovementioned plan is that as many disputes as possible are solved by persons themselves. An independent advisory body will review whether subsidised legal aid is necessary or whether other forms of help are sufficient. Due to political pressure, the Minister agreed that when the person seeking justice decides not to follow the advice of the advisory body, their right to legal aid will not be affected.⁵⁹

Legal advisors, mediators and insurance companies can offer legal advice in so-called legal-aid-packages (*rechtshulppakket*). The government seems to expect that citizens seeking legal advice will be capable to make the right decision about which legal-aid-package they need. However, it is questionable whether everyone will be capable of making this decision. Another concern is that the free choice of a legal advisor will be limited. Furthermore, the conditions under which legal-aid-packages are offered should not result in a situation in which a person is or feels forced to accept, for example, a settlement. These decisions are to be made voluntarily by the person concerned and should not be dependent on the sort of legal-aid-package one has chosen.

⁵⁷ M. Vermeulen, *Users of justice at the centre. Legal Empowerment: a form of legal emancipation?* [Gebruikers van het recht centraal. Legal Empowerment: een vorm van juridische emancipatie?], Lectoraat Toegang tot Recht Kenniscentrum Sociale Innovatie (KSI) & Instituut voor Recht 2017.

⁵⁸ *Kamerstukken II* 2018/19, 31 753, nr. 155.

⁵⁹ *Kamerstukken II*, 2018/19, 31 753, nr. 163, motion Buitenweg a.o.

Suggestion for a question:

What measures will the government take to ensure that the legal-aid-packages will not unlawfully restrict access to justice and that enough relevant and comprehensible information is available for persons to make the right decision?

Legal assistance in the ZSM-procedure

For certain crimes, the Public Prosecution Service (PPS) has the power to determine guilt and impose a penalty without recourse to a court. This so-called *strafbeschikking* is one of the options at the disposal of the PPS in a ‘ZSM-procedure’.

Even though suspects have the right to legal assistance when their case is dealt with in a ZSM-procedure, they often do not use this right. The Institute is concerned about this, because suspects can get a criminal record when they are convicted in a ZSM-procedure. Legal assistance should be available and accessible in all cases.⁶⁰ A positive development is that the Minister of Justice and Security has promised that suspects who face a *strafbeschikking* during a ZSM-procedure will get legal assistance in all cases.

Suggestion for a question:

What concrete steps will the government take to ensure that legal assistance will be guaranteed in all ZSM-procedures?

Answer to paragraph 26

Follow-up to the Committee’s views on DNA testing of juvenile offenders

In reaction to the views adopted by the Committee in communication nos. 2362/2014 and no. 2362/2013 the Minister of Justice and Security announced in April 2018 that the DNA Testing (Convicted Persons) Act will be reviewed.⁶¹ A report evaluating the implementation of the Act was published in March 2019.⁶² The researchers refer to the Committee’s views on various occasions.

In November 2018, the minister informed Parliament that he intended to amend the Act to the effect that DNA samples would no longer be taken of juveniles who are sentenced to community service for up to 40 hours. He further mentioned that he was still examining to what extent circumstances such as ‘first offender’ will be taken into account. He further announced that he plans to halve the period of time during which the DNA samples of juveniles may be stored. The minister informed parliament to submit a response to the evaluation of the Act in June 2019.⁶³ As the response is not yet available, the Institute cannot yet take a position on any possible amendments of the Act. However, the most recent letter submitted does not seem to allow for sufficient room to take into account individual circumstances, as it continues to provide for mandatory DNA testing and storage under certain circumstances.

⁶⁰ Netherlands Institute for Human Rights, *supra* note 4.

⁶¹ *Kamerstukken II 2017/18*, 31415, nr. 20.

⁶² Peter Kruize & Paul Gruter, *Evaluation of the DNA Testing (Convicted Persons) Act* [Lepelen met een vork, evaluatie van de wet dna-onderzoek bij veroordeelden], Den Haag: WODC 2019.

⁶³ *Kamerstukken II 2018/19*, 31415, nr. 23.

Suggestion for a question:

Please provide an update on the legislative proposals on the DNA Testing (Convicted Persons) Act and motivate whether these comply with the Committee's Views adopted in April 2018.

Freedom of religion (art. 18)

Answer to paragraph 28

The bill banning the wearing of face-covering clothing will enter into force on 1 August 2019.⁶⁴ The Institute has expressed its concerns about the bill on multiple occasions.

A point of concern is that the bill will mostly affect persons of the Islamic faith. Not only women who want to wear face-covering clothing, but a larger group of persons of the Islamic faith can experience this bill as being specifically directed against them. This can consequently lead to a situation in which these persons feel more excluded from Dutch society.

Current laws allow institutions to prescribe a dress-code in which rules are laid down regarding religious expressions and face-covering clothing. Several institutions have asked the Institute to assess whether their dress-code is compatible with equal treatment laws. In some instances the Institute ruled the dress-code was allowed, in other cases it was decided that other, less restricting, measures were available.

The new bill creates one uniform regulation and leaves no room to take into account individual circumstances of the case. The Institute considers this to be a shortcoming.

The Institute acknowledges that compelling reasons can justify the requirement to discard face-covering clothes, such as security reasons or in order to carry out an identity check. However, this bill also makes it possible to deny entry to government buildings (such as the Institute) when persons refuse to discard their face-covering clothing. This can have an impact on the right to access to justice and the possibility to participate in legal procedures. While the right to freedom of religion can be restricted, the particular circumstances of the case have to be assessed in order to determine whether the restriction was justified. According to the Institute it is up to the judge to determine in individual cases whether it is allowed to wear face-covering clothing in the courtroom.

Suggestion for a question:

How will the government guarantee that the restrictions on the right to freedom of religion of individuals wearing face-covering clothing are compatible with article 18 and do not infringe upon other human rights, such as the right to access to justice?

⁶⁴ Decision on the entry into force of the bill banning the wearing of face-covering clothing, *Stb.* 2019, 165.

Peaceful assembly (art. 21)

Answer to paragraph 29

The right to peaceful assembly is laid down in the Dutch Constitution and the Law on Public Manifestations, and is further elaborated by local authorities in their respective regulations. The Institute is concerned about the far-reaching powers of local mayors to impose restrictions on the right to peaceful assembly.

The misuse of powers by local authorities

Research by the Institute indicates that Dutch citizens support the right for everyone to participate in a peaceful assembly. However, there is less support for demonstrations concerning opinions that are not widely shared in society.⁶⁵

Taking this into account it is even more important that local authorities effectively guarantee the right to peaceful demonstration of people having a ‘minority’ opinion. However, a tendency can be discerned where local authorities prohibit these kind of demonstrations because of the fierce reactions by opponents. Examples are the prohibition of the demonstration against the figure of Black Pete in 2017 in Dokkum and the prohibition of multiple demonstrations against Black Pete during the festivities of *Sinterklaas* in November 2018.⁶⁶

Even though local authorities have the intention to facilitate and protect peaceful assemblies, in practice their concerns about maintaining public order often prevail.⁶⁷ This results in a situation in which the right to peaceful assembly is not fully guaranteed.

Another concern of the Institute relates to the measures taken by the police during peaceful demonstrations. These measures include the use of video surveillance, ID-checks and even refusing demonstrators access because they did not notify beforehand. These kind of measures can have a chilling effect on persons that want to use their right to peaceful assembly.

Starting point should be to facilitate demonstrations and to protect demonstrators against a hostile audience. In this regard the Institute welcomes the guidelines developed by the municipality of Amsterdam, the police, the public prosecutor, the OSCE and multiple NGOs on dealing with demonstrations. These pay due attention to the guarantees offered by the right to peaceful assembly. The Institute also appreciates that the government organized meetings with local authorities to discuss the right to peaceful assembly.⁶⁸ However, as the handling of demonstrations against Black Pete in November 2018 indicates, local authorities are still misusing their powers and unlawfully curtail the right to peaceful assembly.

⁶⁵ Netherlands Institute for Human Rights, *As long as we agree. Dutch citizens about the freedom of expression and the right to peaceful assembly* [Zolang we het maar eens zijn. Nederlanders over de vrijheid van meningsuiting en demonstratievrijheid], September 2018.

⁶⁶ Tijdgebrek, argwaan, hooligans en de knieval voor geweld (www.nrc.nl).

⁶⁷ Netherlands Institute for Human Rights, *supra* note 4; National Ombudsman, *The right to peaceful assembly: Friction between a human right and public powers* [Demonstreren: een schurend grondrecht], March 2018.

⁶⁸ *Kamerstukken II 2018/19*, 34324, 5.

Suggestion for a question:

What further measures will the government take in order to prevent the misuse of powers by mayors in restricting or prohibiting peaceful demonstrations, especially demonstrations concerning controversial or minority opinions?

The requirement of prior notification

The requirement of prior notification is laid down in the Law on Public Manifestations. Recent technological developments have made it easier to organize a spontaneous (counter)demonstration. In these situations, local authorities do not receive a prior notification and have less time to prepare for the demonstration. Nevertheless, they should also facilitate and protect spontaneous demonstrations.

The Institute is concerned that the Law on Public Manifestations allows mayors to prohibit a demonstration solely on the ground that there has been no prior notification. This is not in conformity with international human rights law and jurisprudence. As long as there are no serious concerns regarding public disorder, traffic disturbance, or health, spontaneous demonstrations must be facilitated and protected.⁶⁹

Suggested question:

What measures will the government take to ensure that the Law on Public Manifestations is applied in conformity with international human rights law, especially the clause that a demonstration can be prohibited when no prior notification is given?

Rights of the child (arts. 7,24 and 26)

Answer to paragraph 30

Measures taken to address child abuse

Research has estimated that, annually, between 90,000 to 127,000 children experience at least one form of maltreatment. This concerns physical and sexual abuse, and serious negligence. 29 percent of these children has experienced more than one form of maltreatment.⁷⁰

The Inspectorates of Justice and Security and of Health and Youth Care have expressed their concerns regarding the safety of children that are on the waiting list of the Council of Child Protection. Every child that is a potential victim has the right to an independent advice by the Council. However, in many cases this takes longer than the set period of ten days. The measures that were adopted by the Council are not sufficient to limit the risks caused by the prolonged waiting period according to the Inspectorates.⁷¹ Furthermore, the reports of child abuse and domestic violence that are received by Safe at Home centres

⁶⁹ Netherlands Institute for Human Rights, *supra* note 4.

⁷⁰ Research and Documentation Centre, *Netherlands' prevalence study on maltreatment of children and youth* [Nationale prevalentiestudie mishandeling van kinderen en jeugdigen], 2018.

⁷¹ Inspecties: Raad voor de Kinderbescherming heeft onvoldoende zicht op veiligheid kinderen op wachtlijst (www.igj.nl).

are often not assessed or investigated in time. According to the director of the national organisation of Safe at Home centres this is caused by the new working method that entered into force in January 2019 and hopefully most of these problems will be solved in the second part of 2019.⁷²

Suggestion for a question:

What measures will the government take to ensure that reports of children that are (potential) victim of child abuse are investigated in time so they receive the help needed within an appropriate amount of time?

Support and care for child victims

There is insufficient support for children as a witness and victim of domestic violence. The safety of children in families where domestic violence occurs is even after reporting and support not self-evident.⁷³ Their safety should continue to be protected and structurally monitored.

Safe at Home centres delegate approximately two-thirds of the reports to local actors such as the social neighbourhood teams. These teams are however not always sufficiently equipped to address domestic violence adequately or to assess the risks for children growing up.⁷⁴ The social neighbourhood teams and centre for youth and family need specialised knowledge about child abuse.⁷⁵ Specialised professionals should also involve children in their approach to tackle domestic violence. Their voice is often not heard. Municipalities do not monitor whether local preventive policies geared towards a specific group with an increased risk of domestic violence achieve their goal.⁷⁶ Municipalities should assess whether the specific group is reached.

Children in shelters are often not seen as clients themselves and do not receive the support they need. The focus of care and support is on their parents because funding is based on the number of adult clients in the shelter. Consequently, the budget to support children is inadequate and it takes a long time to receive funding for support for the child because it is financed from another budget than that of the parent. Moreover, the approval of the other parent is also necessary. Shared parental authority is also problematic when other decisions concerning the child are to be made, for instance about which school to go to and how to realise visiting rights without putting the other parent and child at risk.

⁷² Hulp na huiselijk geweld laat te lang op zich wachten (www.trouw.nl).

⁷³ Bas Tierolf, Katinka Lünemann & Majone Stekete, *Breaking the pattern of violence requires specialist support* [Doorbreken geweldspatroom vraagt gespecialiseerde hulp], Utrecht: Verwey-Jonker Instituut, 2014.

⁷⁴ Silke van Arum & Thijs van den Enden, *Social neighbourhood teams in the picture* [Rapport Sociale (wijk)teams opnieuw uitgelicht], Utrecht: Movisie, 2018; TSD/STJ, *The social neighbourhood team and vulnerable families* [Rapport Het wijkteam en kwetsbare gezinnen], Utrecht: TSD/STJ, 2017.

⁷⁵ UNICEF Nederland and Defence for Children, *Annual report on children's rights 2018, children in the Netherlands* [Jaarbericht Kinderrechten 2018, Kinderen in Nederland], 2018.

⁷⁶ Erik Jan de Wilde et al. *The local efforts for the prevention of violence against children* [De gemeentelijke inzet voor preventie van kindermishandeling. Stand van zaken oktober 2017], Utrecht/ Den Haag: Nederlands Jeugdinstituut / Kinderombudsman, 2017.

Suggestion for a question:

How does the government guarantee that children who are victims of domestic violence receive the specialised support they need at home and in a shelter and that their voice is heard?