

Submission to the committee on the Rights of Persons with Disabilities

Concerning the initial report
of the Netherlands



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1 Introduction

The Netherlands Institute for Human Rights is the independent body responsible for the monitoring mechanism for the Convention on the Rights of Persons with Disabilities. The Institute is accredited with the A-status. It has installed an advisory committee of persons with a disability that is involved in the monitoring process. It regularly consults with (organizations for) persons with disabilities, the focal point (the Ministry of Health, Welfare and Sport) and other organizations that (can) play a role in the implementation of CRPD.

2 Working method

In order to determine the focus of this report, the Institute made an assessment of relevant issues concerning the implementation of the Convention. The Institute took into account information received from persons with disabilities and their representative organizations, research, reports, policies, parliamentary documents and laws concerning persons with disabilities. The Institute has consulted (organizations for) persons with disabilities on the project plan for the report, the issues to be addressed in the report and the draft report.¹

3 Executive summary

The Netherlands Institute for Human Rights (the Institute) submits this report under its mandate as the national monitoring body under Article 33.2 of the Convention on the Rights of Persons with Disabilities (CRPD). It contains the view of the Institute on the first two years after ratification of the Convention in July 2016. The government of The Netherlands has submitted its first report in June 2018.

After the ratification in 2016, the government of the Netherlands has developed a number of initiatives to implement the Convention. The Ministry of Health, Welfare and Sports, the coordinating ministry, set up a platform. Participants in that platform are other ministries, municipalities, stakeholders such as sectoral organizations of employers and service providers, trade unions and organizations representing persons with disabilities.

Action plans in various sectors were drafted and are in the process of being implemented. Consultation with persons with disabilities is part of the process. Exchange of information with the Institute takes place on a periodic basis.

A number of positive developments can be seen: the efforts to make the electoral process more accessible, the extension of the equal treatment legislation to the ground of disability and the establishment of the aforementioned platform.

The Institute has some concerns relating to the implementation process. In general, steps have been taken to promote an inclusive society. However, the pace at which necessary adjustments are made to ensure that persons with disabilities can participate in society is low. Furthermore the Institute notes that not all municipalities have made a plan for the implementation of the Convention yet, whilst they deal with many issues concerning the rights of persons with disabilities. Also the Institute is concerned that the application of the Convention has been excluded for the Caribbean part of the Netherlands, the islands of Bonaire, Saba and Sint Eustatius. It is necessary that the government determines a timeframe for the application of the Convention in this part of the Netherlands.

Specific concerns occur in the following areas:

- **Equality before the law:** courts tend to apply the least intrusive guardianship measure possible. However, legislation regarding curatorship, mentorship and protective administration allows for substitute decision making.
- **Social support services:** the extent of support services vary from municipality to municipality. The skills and expertise of municipal staff dealing with social support for persons with disabilities are under discussion and moving from one municipality to another has consequences for the provided services and support aids.
- **Health:** Health services for persons with psychosocial conditions are often not timely available. As a result of the existing waiting lists, people do not receive proper care. This may result in other health issues, loss of work and other social issues.
- **Education:** Although the Appropriate Education Act has as a goal to increase the number of children in mainstream education, a large number of children with disabilities is attending a school for special education. The introduction of inclusive education as required by article 24 CRPD is not being considered.

¹ The Institute has consulted with its advisory group of persons with disabilities, the Dutch Coalition on Disability and Development, Defence for Children, the Landelijke Cliënten Raad, Inclusie Verenigt, Samen Sterk zonder Stigma, Dovenschap, de Alliantie, de Oogvereniging and the Vereniging Gehandicaptenzorg Nederland.

- **Employment:** steps towards the realization of an inclusive labour market are slow and have not led to an increase of persons with disabilities in the labour market. The creation of jobs for persons with disabilities in the public sector is below target.
- At the time of ratification of the Convention, the government of the Netherlands has issued 7 interpretative declarations about various articles. According to the Institute, the necessity and relevance of these declarations has been insufficiently justified.
- The government of the Netherlands has not ratified the Optional Protocol to the Convention. This prevents individuals from submitting a case before the Committee.

4 General remarks

4.1 Declarations

The government has submitted several interpretative declarations upon signature and ratification of the CRPD.² The Institute considers that these declarations are contrary to the object and purpose of the Convention and therefore should be withdrawn (see annex 1).

4.2 Ratification of the Optional Protocol

The government has not signed the Optional Protocol to the CRPD nor has it presented a timeframe for ratification. The government has announced that its decision to ratify the Optional Protocol depends on the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Council of State has advised on the ratification of the ICESCR Optional Protocol in May 2017. So far, the government has not responded to this advice. As a result, no steps towards ratification of the Optional Protocol to the CRPD have been taken. Ratification of the Optional Protocol will contribute to the protection of the rights of persons with disabilities. The Institute considers that the procedure for ratification of the Optional Protocol to the CRPD should not depend on the ratification of the Optional Protocol to the ICESCR.

Suggestion for a question:

Can the government give a time frame for ratification of the Optional Protocol to the CRPD?

² The government has made declarations concerning articles 10, 12, 14, 15, 23, 25 and 29.

4.3 Implementation in the Caribbean Netherlands

When the government ratified the Convention it excluded its immediate application in the Caribbean Netherlands. The Caribbean islands Bonaire, St Eustatius and Saba are special municipalities of the Netherlands and form part of the Dutch constitutional order. On several occasions the Institute has urged the government to declare that the Convention is applicable in the Caribbean Netherlands. Another advisory body, the Advisory Council on International Affairs, stated in 2018: 'As a matter of principle, human rights treaties should be applicable to the entire territory of the Kingdom of the Netherlands owing to the universality of human rights and the need for consistency in internal and international policy.'³

In 2016, the Ministry of Health, Welfare and Sport commissioned a research on the existing gaps in legislation, policy and practice for implementation of the Convention in the Caribbean Netherlands.⁴ The research shows that at present there are problems with the accessibility of public spaces, work, shelter and housing for people with severe disabilities. A comprehensive response of the government to the report has not been published yet. Good news is that the three local island authorities have drawn up action plans to improve the situation for persons with disabilities in practice.

Suggestion for a question:

Which steps have been taken to make the Convention applicable in the Caribbean part of the Netherlands and what is the timeframe?

³ Advisory Council on International Affairs, *Fundamentele rechten in het koninkrijk: eenheid in bescherming theorie en praktijk van territoriale beperkingen bij de ratificatie van mensenrechtenverdragen* (Fundapsychosocial rights in the Kingdom of The Netherlands: equivalent protection in all parts of the Kingdom. Theory and practise of territorial limitations on the application of human rights treaties upon ratification), Report No. 107, The Hague: AIV, June 2018.

⁴ IdeeVersa and DSP-groep, *Onderzoek VN-Verdrag inzake de Rechten van personen met een handicap in Caribisch Nederland* (Research CRPD in the Caribbean Netherlands), 31 August 2016.

5 The CRPD at the local level

5.1 General

In 2015, social support services in the Netherlands were decentralised and transferred to municipalities. With the ratification of the CRPD, in the Youth Act, the Social Support Act and the Participation Act an obligation has been established for municipalities to develop a periodic plan for the implementation of the CRPD. Many municipalities refer to this plan as their Local Inclusion Agenda. In order to support municipalities to realize tangible results in the areas of inclusion and accessibility, the government and the Netherlands Association of Municipalities (VNG) initiated a programme of 25 'front runner municipalities'. These municipalities may choose their own priorities in consultation with local organizations of persons with disabilities.⁵ Front runner municipalities were chosen in consultation with the CRPD Alliance, a network of organizations of persons with a disability. The Institute welcomes the interest shown by municipalities in joining this initiative. It expresses the hope that all Dutch municipalities will invest in the implementation of the CRPD.

5.2 Support services

Municipalities are required to carry out the Social Support Act 2015. In implementing this act, they have a broad discretionary authority, intended to cater for the local situation. Each municipality is responsible for financing the support services from its budget. Municipalities make their own policies on, for example, the availability of community services. Also, they may make different arrangements with parties that deliver equipment, such as mobility devices, and other services that support independent living. Subsequently, differences among municipalities exist. While a request for a specific individual support service may be granted by one municipality, another may decide differently. These differences lead to problems in practice.

Firstly, some municipalities deliver more and better services to persons with disabilities than others. Differences can be justifiable under Dutch law and CRPD standards. However, in many cases the monitoring policies and the quality of support services is inadequate.

Also some municipalities have not set up instruments to monitor the quality of support services.⁶ Secondly, it is a point of concern that staff dealing with applications for support do not always have the necessary skills and expertise about persons with disabilities.⁷ The availability of expertise can therefore also be one of the reasons that differences between municipalities exist. Thirdly, when persons with a disability move to another municipality, they may be confronted with different rules and regulations. They need to re-apply for services and support and are often confronted with a long period in which their request is processed. Also they are regularly provided with a different type of support or equipment.

Suggestion for a question:

What measures will the government take to counter the negative side effects of the decentralisation of support services for persons with disabilities?

6 General obligations (article 4)

The government has set up an implementation programme in consultation with persons with disabilities and organizations that have a role in the implementation. This programme has set goals and a time frame for the activities planned. It shows that the government is serious about implementing the CRPD and is putting an effort in promoting, protecting and ensuring the rights of persons with disabilities. The initial report refers to the tasks of the government at the central level and municipalities at the local level to implement the CRPD, but does not mention the role of provinces at the regional level under the CRPD. For example, accessibility of recreational areas and regional transport are provincial tasks.

6 Lia van der Ham et al., 'Conclusies en slotreflectie', in: *De Wmo 2015 in praktijk. De lokale uitvoering van de Wet maatschappelijke ondersteuning*, (Conclusion and final reflections. In: The Social Support Act in practice. The implementation of the Social support act at the local level). Den Haag: SCP, 2018, p. 195.

7 Peteke Feijten e.a., *Zicht op de Wmo 2015. Ervaringen van melders, mantelzorgers en gespreksvoerders*, (Gaining insight into the Social Support Act 2015. Experiences of applicants, informal carers and interviewers), Den Haag: SCP, 2017, p. 20.

5 Implementatieplan, p. 9.

Suggestion for questions:

How does the government guarantee the realization of the rights of persons with disabilities at the provincial level?

What actions have provinces taken to comply with the CRPD?

7 Equality and non-discrimination (article 5)

Despite the existence of a law on equal treatment for persons with disabilities, many people with disabilities still experience discrimination in the area of work, education and the provision of goods and services. In 2017 the Institute published 161 judgements on individual complaints about discrimination. 30% of these judgements concerned discrimination on the ground of handicap or chronic illness. Both the Institute and local and regional anti-discrimination agencies report a rise in the number of cases of unequal treatment of persons with disabilities (see Annex 2). One of the reasons could be that goods and services has been added to the Dutch Act on Equal Treatment on the Grounds of Disability or Chronic Illness. The individual cases give insight in the type of discrimination that people with disabilities experience. However, data on more institutional forms of discrimination has not been collected.

In 2017, the Ministry of the Interior and Kingdom Relations has added discrimination of persons with disabilities to the existing anti-discrimination campaign 'Strike out Discrimination'.⁸ Amongst others, it highlights the requirement to provide for reasonable accommodation and general accessibility.

8 Women with disabilities (article 6)

The government report refers to the Dutch policy to advance the position of women in general.

It acknowledges that 'there is (currently) no specific policy on gender equality in relation to the rights of persons with disabilities.'⁹ Neither in the report, nor in the explanatory memorandum to the act of ratification, does the government mention any plans to develop a policy aimed at the advancement and empowerment of women and girls with disabilities.¹⁰

So far, there is insufficient data on the situation of women with disabilities and the extent to which they can fully enjoy all their rights under the Convention. While welcoming the adoption of the implementation programme, the Institute regrets that the government has not seized that opportunity to place the position of women with disabilities on the agenda. It is not self-evident that all partners – be it governmental or non-governmental – involved in implementing the Convention will take their specific situation into account when necessary. That requires steering and monitoring by the government.

Suggestion for a question:

What steps will the government take to guarantee that the policies and practices of all branches of government comply with the Convention obligations to promote, protect and fulfil the human rights of women and girls with disabilities in all areas of the Convention?

8 Campagne 'Zet een streep door discriminatie'.

9 Initial report on the implementation by the Netherlands of the UN Convention on the Rights of Persons with Disabilities (12 July 2018), article 6.

10 Rijkswet houdende goedkeuring van het op 13 december 2006 te New York tot stand gekomen Verdrag inzake de rechten van personen met een handicap (Trb. 2007, 169 en Trb. 2014, 113), Memorie van Toelichting, Kamerstukken II, 2013-2014, 33 992 (R2034), nr. 3, p. 28.

9 Children with disabilities (article 7)

The government reports that under the Youth Act municipalities should guarantee low-threshold youth care that provides appropriate and timely services. However, obtaining youth care for children often requires much effort by parents.¹¹ It can take months before an intake takes place and then months before treatment starts. Young clients report that the quality of care is not always guaranteed. Furthermore, the availability of care and budget has decreased. As children with disabilities often need more care than other children, it is essential that these problems are solved.

Suggestion for questions:

How will the government guarantee that children with care issues receive timely and adequate care?

How will this be monitored?

At present youth care under the Youth Act ends at the age of 18 years. After this age other care Acts are applicable. For some persons with a disability, especially those with an intellectual disability, this can be problematic. They often need extra support concerning matters as housing, income and health insurance. The government has been advised to extend youth care to the age of 21.¹²

The Ministry of Health, Welfare and Sport and the ministry of Justice and Security launched an Action Programme Care for the Youth.¹³ Amongst other things it is aimed at better guidance and continuity of care and support when vulnerable young people turn 18.

Suggestion for a question:

How will the government measure the effects of the Action Programme Care for the Youth on children with disabilities?

11 Friele e.a., Eerste evaluatie Jeugdwet (First Evaluation of the Youth Act), The Hague: ZonMw, 2017.

12 Advies van de Raad voor de Volksgezondheid en Samenleving (Advice of the Council of Health and Society) van juni 2018.

13 Actieprogramma Zorg voor de Jeugd, april 2018.

10 Awareness-raising (article 8)

The Institute appreciates that the government has given priority to awareness-raising in its implementation programme. As noted under article 5, the Ministry of the Interior and Kingdom Relations has initiated the campaign 'Strike out discrimination'.¹⁴ 'Participating with a disability'¹⁵ is part of this campaign. The ministry of Health, Welfare and Sport also gives financial support to several organizations that are undertaking awareness-raising activities.

11 Accessibility (article 9)

With the ratification of the Convention, the Dutch Act on Equal Treatment on the grounds of Disability or Chronic Illness was amended and obliges providers of goods and services to progressively realize general accessibility. The obligation entails a best efforts requirement.

Buildings

In the initial report, the government refers to several laws concerning accessibility of buildings. However, the scope of obligatory accessibility standards relating to public and private buildings is narrow. The Buildings Decree 2012 regulates the construction of buildings and contains rules on accessibility. These rules only apply to specific new buildings depending on their surface area and function. For instance, only certain high-rise and large residential buildings are subject to accessibility requirements.

The Buildings Decree 2012 does not apply to low-rise or ground-oriented residential buildings that have their own entrance on ground level. In order to comply with article 9 of the CRPD, the accessibility norms and standards in the Buildings Decree 2012 and those proposed in the Environment and Planning Act¹⁶ - which will enter into force on 1 January 2021 - must also be applicable to such buildings. Also these should regulate the accessibility of buildings for persons with a visual disability, for example with regard to illumination and signposting.

14 'Zet een streep door discriminatie.'

15 'Meedoen met een handicap.'

16 Omgevingswet.

In January 2018, the Ministry of the Interior and Kingdom Relations presented an action plan for the building sector to improve the accessibility of homes and buildings, which are open to the public.¹⁷ This plan contains many specific measures and a timeframe to improve the accessibility in this sector, including the development of accessibility guidelines for builders. Designers, developers, building constructors and representative organizations of persons with disabilities are involved. Although the guidelines are not obligatory, the inclusion of relevant stakeholders in this process is promising.

Suggestion for questions:

What measures will the government take to promote and monitor compliance with the accessibility guidelines?

Will the government incorporate the accessibility guidelines for builders in existing and forthcoming legislation?

Public transportation

The government reports that it has taken many steps to improve the accessibility of public transportation. However, persons with disabilities still encounter obstacles. This is particularly the case for persons who are deaf, deafblind or hard of hearing and for persons with physical or visual impairments. All train stations have been made accessible for persons with visual impairments, but in some cases persons with other disabilities encounter accessibility issues. Research shows that persons in a wheelchair encounter difficulties in bus travel.¹⁸ For this reason, in 2018 the government will oblige transport authorities to increase the number of accessible bus and tram stops. For that purpose, it will amend the Public Transport Accessibility Decree and the Public Transport Accessibility Regulation.¹⁹ These are positive steps which contribute to the obligation of progressive realization that public transport is 100% accessible.

¹⁷ See Tweede Kamer, vergaderjaar 2017-2018, 33 990, nr. 63.

¹⁸ DTV Consultants, *Toegankelijkheid op de rit?* (Accessibility on the bus), Breda: 2017.

¹⁹ Ministry of Health, Welfare and Sport, *Programma VN-verdrag. Onbeperkt meedoen!* (Programme aimed at the full participation of persons with disabilities in the community), June 2018.

Accessibility of websites

With the increasing dependence on internet related services, accessibility of websites, apps and related technologies is an important issue. Application of international WCAG standards to all public sector websites was made compulsory, also to implement relevant EU regulations.²⁰ Research into public websites of municipalities in 2015 showed that the majority of those websites did not meet accessibility standards.²¹ After the report became public, many municipalities have adapted their websites.

Research shows that websites of private providers of goods and services are not always accessible for persons with disabilities. Digital accessibility is an unknown term to many of these providers. Especially persons with visual impairments encounter problems while buying products online. Compared to 2016 this situation has not improved.²² Also websites in the health care sector are not always accessible.²³ The Ministry of Health, Welfare and Sport has announced it will work on the improvement of digital accessibility of the health care sector.²⁴

Suggestion for questions:

How will the government ensure that websites and mobile applications (apps) of private organizations are accessible for persons with disabilities?

What measures has the government taken to improve the digital accessibility of the health care sector?

²⁰ *Tijdelijk besluit digitale toegankelijkheid* (Temporary decree digital accessibility).

²¹ Stichting Drempeelvrij, *Digitale toegankelijkheid van gemeentelijke websites* (Digital accessibility of websites of municipalities), 2015.

²² Stichting Accessibility, *Uw winkelmandje is leeg. Onderzoek naar de toegankelijkheid van websites van private aanbieders van goederen en diensten* (Your shopping basket is empty. Research of the accessibility of websites of private providers of goods and services), Utrecht: september 2018.

²³ <https://www.accessibility.nl/nieuws/2018/01/digitale-toegankelijkheid-in-de-zorg-kan-beter>

²⁴ Antwoord op schriftelijke vragen aan de minister van Volksgezondheid, Welzijn en Sport (answer of the Minister of Health, Welfare and Sport to written questions), 6 maart 2018, 2018Z01127.

12 Right to life (article 10)

The Institute has found no issues relating to the right to life that need specific attention in this report.

13 Situations of risk and humanitarian emergencies (article 11)

Accessibility of emergency number

The government has realized that the national emergency number 112 is currently not fully accessible for persons who are deaf, deafblind or hard of hearing. A publicly available software app for emergencies is being developed and text services and total conversion software have improved the availability of 112 for persons who are deaf, deafblind or hard of hearing. However, the Institute is concerned that sign language interpreters, who are necessary to communicate with telephone operators of 112, are only available between certain hours: during the week between 7 A.M. and 8 P.M. and on holidays and in the weekend only 6 hours a day.²⁵ The government has committed to extending the availability of sign language interpreters in the weekends and on holidays from 6 hours a day to 13 hours a day.²⁶

Suggestion for a question:

What is the present situation concerning the possibilities of persons who are deaf, deafblind or hard of hearing to reach emergency services?

Safety at large public events

There has been some concern regarding the applicability of fire safety rules for festivals and other large public events to persons with disabilities. In 2018 national legislation came into force with minimum standards for festivals on fire safety.²⁷ The Institute notes that these

rules do not sufficiently take into account the presence of persons with disabilities; for example, the minimum width of firebreaks and fire exits is too narrow for wheelchairs.²⁸ There has been no consultation of persons with disabilities prior to drafting the rules, contrary to what is required by article 4(3) of the Convention.

Suggestion for questions:

What will the government do to ensure that fire safety rules take persons with disabilities into account?

How will the government ensure that persons with disabilities are included in the drafting and assessment of safety rules in general?

Safety in public buildings

Public buildings often do not have a visual alarm system. This can result in dangerous situations for persons who are deaf, deafblind or hard of hearing, for they cannot hear the alarm when it goes off.

Suggestion for a question:

How will the government ensure that visual alarm systems are installed in all public buildings?

14 Equal recognition before the law (article 12)

In the Netherlands there are three types of adult guardianship: curatorship (curatele), protective administration (bewindvoering) and mentorship (mentorschap). These measures, enshrined in the Civil Code, result in loss or limitation of legal capacity. The 2015 Quality Requirements Decree²⁹ stipulates that, where possible, guardians should promote the individual's self-reliance.

25 Rijksoverheid, Hoe kan ik alarmnummer 112 bereiken als ik doof of slechthorend ben?, available at <https://www.rijksoverheid.nl/onderwerpen/alarmnummer-112/vraag-en-antwoord/112-bellen-doven-slechthorenden>.

26 Brief van 12 september 2018 van de staatssecretaris van Economische Zaken en Klimaat aan de Tweede Kamer (letter of the Secretary of State of Economic Affairs and Climate). Kamerstukken II, 2018/19, nr. 559.

27 Besluit brandveilig gebruik en basishulpverlening overige plaatsen, 4 October 2017.

28 Ibid., Article 3.34.

29 CBM Quality Requirements Decree (Besluit kwaliteitseisen cbm), 1 June 2015, Bulletin of Acts and Decrees 2015, no. 186.

The guardianship law, which was amended in 2014, states that all protective measures should be withdrawn if the necessity no longer exists or continuation no longer serves any purpose. This has resulted in an increase of withdrawal of protective measures.³⁰ Dutch courts, under whose authority guardianship measures are imposed, tend to apply the least intrusive measure. Since 2014 the number of curatorships and mentorships seems to be constant, but the number of protective administrations has increased. In 2016 the total number of guardianship measures was 326,100.³¹

In some cases people are pressured to request guardianship, because otherwise they do not get access to a care institution, a rental house, a bank loan or a mortgage.³² According to experts, the Dutch adult guardianship law is incompatible with the principles of supported decision making as prescribed by article 12 of the Convention.³³

Suggestion for a question:

What measures will the government take to achieve that adult guardianship is in compliance with article 12?

15 Access to justice (article 13)

The Institute is concerned about the position of persons with disabilities in the criminal procedure. Since 2014, the Code of Criminal Procedure has been under revision.³⁴ In 2018, the Institute advised the Minister of Justice and Security on the rights of persons with disabilities in the criminal procedure. It underlined the need to involve persons with disabilities in the legislative review, as part of the new legislation concerns them. They should also be directly involved in assessing and improving the accessibility of court buildings.³⁵

To ensure that persons with disabilities can effectively participate in criminal trials, it is important that their disability is recognised. This can be difficult when it concerns persons with an intellectual disability. It can be detrimental to their position if this is not established and the person involved is not treated accordingly, especially if it concerns children.

The communication with persons with disabilities in the criminal procedure needs to be adapted by using simpler language, or using particular means of communication such as movies, icons, sign language or Braille. If persons with a disability prefer to be assisted, they should be allowed to receive such assistance by a person of their own choice.

In its initial report to the CRPD Committee, the government explains what has been done to improve access to justice for persons with disabilities, including persons with an intellectual disability. However, it remains unclear in what way an intellectual disability is recognized.

Suggestion for a question:

What measures has the government taken to identify persons with (intellectual) disabilities early on in the criminal procedure?

30 Bureau Bartels, *The effect of the CBM (Amendment) Act, the CBM Quality Requirements Decree and the Regulations on CBM Remuneration*, Amersfoort: WODC 2018.

31 <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Raad-voor-de-rechtspraak/Nieuws/Paginas/Weer-meer-mensen-onder-bewind.aspx>

32 E.g. ECLI:NL:RBZWB:2016:6374 (obligation to request guardianship allowed as condition for providing personal support budget); ECLI:NL:RBZWB:2016:5844 (healthcare institution requires that person concerned is placed under guardianship).

33 K. Blankman, K. Vermariën, *Conformiteit van het VN-Verdrag inzake de rechten van personen met een handicap en het EVRM met de huidige en voorgestelde wetgeving inzake vertegenwoordiging van wilsonbekwame personen in Nederland* Vrije Universiteit Amsterdam (Conformity of the CRPD and the ECHR with Dutch laws concerning adult guardianship), Amsterdam: Vrije Universiteit Amsterdam, 2015.

34 <https://www.rijksoverheid.nl/actueel/nieuws/2017/02/07/modernisering-van-het-wetboek-van-strafvordering-vordert-gestaag>

35 Netherlands Institute for Human Rights, *(On)beperkt deelnemen aan het strafproces. Advies modernisering Wetboek van Strafvordering* (Taking part of the criminal procedure without barriers), juli 2018.

16 Liberty and security of person (article 14)

Involuntary placements

The legal basis for involuntary placements can be found in the Psychiatric Hospitals Act.³⁶ In 2020 this act will be replaced by the Act on Compulsory Mental Healthcare³⁷ and the Act on Care and Involuntary Treatment of Psychogeriatric and Mentally Disabled Clients.³⁸ One of the goals of these acts is to enhance the legal protection for persons receiving compulsory care or involuntary treatment.

In 2004, the introduction of community treatment orders made it possible to avert involuntary placement when conforming to ambulatory treatment conditions. The objective was to decrease the number of persons in (psychiatric) institutions. Despite these intentions, the number of involuntary placements has risen over the years.³⁹ The underlying cause for this trend is not clear-cut, but a number of factors might play a role, according to psychiatrists and researchers specialized in involuntary care. The length of placements has decreased, leading to some patients being sent home too soon and increasing their chances of relapse. In addition, there is an increasing number of patients with a psychosocial disability in outpatient care that receive insufficient professional support. Societal factors can also play a role: decreasing tolerance in society for people who show nonstandard or troubling behaviour, urbanization, social isolation, and marginalization of vulnerable groups with less interpersonal contact as a result.

Article 14 of the CRPD obliges States Parties to ensure that persons with disabilities are not deprived of their liberty unlawfully or arbitrarily. The existing trend of an increase in involuntary placements in institutional care, seems to be at odds with the requirements of article 14 of the Convention. It is unclear if the forthcoming legislation, which will take effect in 2020, will reverse change this development.

36 Wet BOPZ

37 Wet verplichte GGZ

38 Wet Zorg en Dwang

39 J. Broer, C.F. Mooi, J. Quak, C.L. Mulder, *Continuous increase in community treatment orders and compulsory admissions in the Netherlands 2003-2017*, Ned Tijdschr Geneeskd 2018 (in press).

Suggestion for questions:

What does or will the government do to reduce the number of involuntary placements in psychiatric institutions?

What will the government do to improve the quality of outpatient (involuntary) mental healthcare?

Will the government monitor the developments in psychosocial health care to identify the cause(s) for the increase in the number of involuntary placements?

Involuntary treatment at home

The government has drafted decrees that regulate the use of involuntary measures at home.⁴⁰ 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. It is concerned that the use of restraint at home could deteriorate the situation of the patient and escalate into situations of inhuman or degrading treatment.⁴¹ Furthermore, the Institute raised the issue of how outpatient care will be monitored.

Suggestion for a question:

What will the government do to guarantee proper monitoring of compulsory outpatient care?

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

41 College voor de Rechten van de Mens, *Advies over observatiemaatregel zoals voorgesteld in de tweede nota van wijziging voorstel Wet verplichte ggz* (Advice on the observation measure), 20 January 2017 and *Reactie van College internetconsultatie Besluit zorg en dwang, verplichte ggz en forensische zorg* (Advice of the Institute on Decrees concerning involuntary measures), 14 February 2018.

17 Freedom from torture or cruel, inhuman or degrading treatment or punishment (article 15)

Solitary confinement of patients in care facilities

Solitary confinement is an extreme measure which brings a significant risk of adverse physical or mental health effects for the patient concerned and can constitute torture or ill-treatment. Since 2002, psychiatric units have attempted to limit both the frequency and duration of isolation. In 2004, the sector's representative body⁴² announced the intention of achieving a ten percent 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 Inspectorate Health Care and Youth monitors unnecessary restriction of freedom in residential care. In 2015 it concluded that there was a reduction of solitary confinement in care facilities compared to a previous monitoring in 2011, but that the pace at which improvements are made differ greatly between care facilities. There are still facilities where patients are isolated for a long period of time.⁴³

Suggestion for questions:

Can the government give data on the number of persons with disabilities that are in solitary confinement at present and the length of the isolation?

What measures has the government taken to speed up the reduction of solitary confinement in care facilities and what are the effects of these measures so far?

⁴² GGZ Nederland (*Dutch Association of Psychosocial Health and Addiction Care*)

⁴³ <https://www.igi.nl/documenten/rapporten/2015/06/04/ggz-instellingen-investeren-in-terugdringen-separatie>.

Use of Tasers in health care institutions

The use of electric discharge weapons (Tasers) as standard police equipment has been piloted from 1 February 2017 to 1 February 2018 in a trial involving police officers in three districts. The final evaluation was published in May 2018.⁴⁴ Several incidents during and after the pilot period showed that the Taser was also used by police officers in health care settings,⁴⁵ even after Parliament adopted a motion stating that the government should prohibit this.⁴⁶ The Institute is concerned about these incidents.⁴⁷

Suggestion for a question:

How will the government ensure that the Taser is not used in (mental) health care institutions?

18 Freedom from exploitation, violence and abuse (article 16)

(Sexual) violence against persons with disabilities

There is no comprehensive data on the various forms of violence against persons with disabilities, including children.⁴⁸ However, research carried out in 2011 shows that persons with a disability, and especially women with intellectual disabilities, are at a high risk of becoming

⁴⁴ O. Adang, B. Mali, K. Vermeulen, *Het stroomstootwapen in de basispolitiezorg? Evaluatie van de pilot* (The electric discharge weapon in basic police work? Evaluation of the pilot), Politieacademie, May 2018. <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2018/06/01/tk-eindrapport-stroomstootwapen/tk-eindrapport-stroomstootwapen.pdf>.

⁴⁵ See, for example, <https://www.trouw.nl/samenleving/woede-over-tasereen-patient-in-soleercel-a420b81a/> and <https://nieuws.nl/algemeen/20180713/zorginstelling-onderzoekt-incident-met-taser/>.

⁴⁶ <https://zoek.officielebekendmakingen.nl/kst-29628-753.html>.

⁴⁷ College voor de Rechten van de Mens, Advies inzake de conceptwijziging van de Ambtsinstructie voor de politie (Advice of the Intitute on Police instructions), juli 2018, <https://mensenrechten.nl/nl/publicatie/38648>.

⁴⁸ Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Slachtoffermonitor seksueel geweld tegen kinderen 2016* (Monitor on child victims of sexual violence 2016). Den Haag: Nationaal Rapporteur, 2018, section 2.3.

a victim of sexual violence.⁴⁹ Since the publication, various measures have been taken to prevent and combat sexual violence. Nevertheless, experts warn that sexual violence against persons with intellectual disabilities is a large and serious problem that remains largely unnoticed, because the victims do not easily speak about the violence. An organization that represents deaf persons⁵⁰ reports that information about (support after) sexual violence is not accessible for persons who are deaf, deafblind or hard of hearing. For example, it is not available in Dutch sign language.

Violence against women and girls with disabilities

A study commissioned by the Institute shows that there is little awareness of the intersection of gender and disability at the level of policy makers in central and local government.⁵¹ Most policy measures against violence apply to all persons. The most recent government policy document on domestic violence does not address violence against women with disabilities.⁵²

Local governments work with the concept of tailored support (*maatwerk*), rather than on the basis of policies developed for groups. This hinders the development of the understanding of the specific needs of women with disabilities. Also, there is no insight into the effectiveness of measures to guarantee their right to be free from violence. Available training tools and materials do not cover all types of disabilities and seem to be inadequate to address lack of awareness amongst professionals.

Sexual violence against children with disabilities

A specific source of concern are child victims of sexual violence. It was established that child victims of sexual violence are often placed in a closed setting, in particular if the victim is a girl.⁵³ In closed settings, a substantial number of children has a (minor or moderate) intellectual disability.⁵⁴ It may therefore be assumed that many children with intellectual disabilities, in particular girls, who are victims of sexual violence, are placed in closed settings.

Exploitation of persons with an intellectual disability

Persons with a light intellectual disability are particularly vulnerable to domestic trafficking and exploitation. Girls are more often victims of sexual exploitation (such as forced prostitution) than boys.⁵⁵ The government and shelters are now paying more attention to victims of (domestic) trafficking in human beings and exploitation of persons with a (minor) intellectual disability.⁵⁶ Professionals in the field note an increase in the number of persons with a minor intellectual disability. This may be due to increased awareness. Another factor mentioned is that they more often live independently, resulting in less protection against exploitation.⁵⁷

49 W. van Berlo et al., *Beperkt weerbaar. Een onderzoek naar seksueel geweld bij mensen met een lichamelijke, zintuiglijke of verstandelijke beperking* (Limited resilience. An investigation into sexual violence among persons with a physical, sensory or intellectual disability), Utrecht: Rutgers WPF/MOVISIE, 2011.

50 Dovenschap

51 Suna Dusak et al., *Geweld tegen meisjes en vrouwen met een beperking. Invulling van mensenrechtelijke verplichtingen in Nederland: een inventarisatie* (Violence against women. An assessment of human rights obligations in the Netherlands), Amsterdam: Regioplan, 2018.

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

53 Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, *Slachtoffermonitor seksueel geweld tegen kinderen 2016* (Monitor on child victims of sexual violence 2016). Den Haag: Nationaal Rapporteur, 2018, section 7.1.5.

54 M. Dirkse et al. *Meisjes in JeugdzorgPlus, Een onderzoek naar genderverschillen in problematiek, behandelplan en genderspecifiek werken*, (Girls in intensive youth care. An investigation into gender differences in problems, treatment and working genderspecifically) Amsterdam: NCSR, 2018, p. 9.

55 Nationaal Rapporteur Mensenhandel, *Mensenhandel, Tiende rapportage van de nationaal rapporteur*, (Human trafficking. Tenth report of the National rapporteur), Den Haag: Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen, 2017, p. 22-23. Landelijk kenniscentrum LVB, *Slachtofferschap van mensenhandel/loverboys*, (Victims of human trafficking/loverboys), at <https://www.kenniscentrumlvb.nl/>.

56 rapport rapporteur mensenhandel 2016

57 Expertisecentrum mensenhandel & mensensmokkel, *Slachtoffers van mensenhandel met een licht verstandelijke beperking (LVB)* (Victims of human trafficking with a minor intellectual disability), april 2018.

Suggestion for questions:

What measures will the government take to collect all the necessary data on the various forms of violence against persons with disabilities in the private sphere, in institutional settings and in the public sphere?

What measures will the government take to guarantee that police and other professionals who deal with victims of different forms of violence and exploitation have the necessary expertise to adequately protect the human rights of persons with disabilities, and to apply a gender perspective in their work? (article 16, in conjunction with article 6 of the CRPD)

What measures will the government take to guarantee that victims of these forms of violence will be rehabilitated and compensated, as required by article 16, paragraph 4 of the CRPD? And to also apply a gender perspective in these measures, as required by article 16, paragraph 5, in conjunction with article 6 of the CRPD?

19 Protecting the integrity of the person (article 17)

Relevant information on the protection of the integrity of the person can be found in the text above under articles 14, 15 and 16. The Institute does not have additional information concerning this topic.

20 Liberty of movement and nationality (article 18)

With regard to immigration procedures, the Institute notes that the asylum procedure in the Netherlands is not always adequate for persons with disabilities.⁵⁸ Due to lack of space and overcrowding in asylum seekers centres, adequate care often cannot be provided. Especially children are under constant stress, which can aggravate already existing conditions. This may not be in compliance with article 18(1) of the Convention. A 2015 report by an organization for deaf persons raised the concern that asylum seekers with a hearing impairment experience problems during the asylum procedure, for example because there are not enough sign language interpreters available. This can put them at a disadvantage in their asylum procedure, which generally relies heavily on oral interviews.⁵⁹

In 2017 the Minister of Justice stated that when asylum centres are insufficiently adapted to asylum seekers with disabilities, these persons are relocated to asylum centres that do have the appropriate facilities or are referred to specialized healthcare facilities.⁶⁰

Suggestion for a question:

What measures is the government taking to ensure that all asylum centres are accessible for and capable to deal with asylum seekers with disabilities?

58 See Slechte omstandigheden in azc voor kinderen met ziekte of handicap, *RTL Nieuws*, 10 April 2018, available at <https://www.rtlnieuws.nl/nieuws/nederland/artikel/4145656/slechte-omstandigheden-azc-voor-kinderen-met-ziekte-handicap> and <https://www.defenceforchildren.nl/actueel/nieuws/migratie/2018/slechte-omstandigheden-voor-gehandicapte-kinderen-in-asielzoekerscentra>.

59 See Dovenschap, Problemen die dove asielzoekers ervaren bij een asielaanvraag in Nederland (problems that persons who are deaf experience when seeking asylum in the Netherlands), 26 May 2015, available at <https://www.dovenschap.nl/rapport-dove-asielzoekers/>.

60 Vragen van het lid Buitenweg (GroenLinks) aan de Staatssecretaris van Veiligheid en Justitie over de zorg voor zieken en mensen met een beperking in asielzoekerscentra (ingezonden 26 september 2017). Antwoord van Minister Blok (Veiligheid en Justitie) (ontvangen 9 oktober 2017), available at <https://zoek.officielebekendmakingen.nl/ah-tk-20172018-136.html>.

21 Living independently and being included in the community (article 19)

Persons with disabilities do not always have the same opportunity as other persons to choose their place of residence. This is the case for those living in care facilities, but also for others. In 2016, 41% of individuals with a minor to moderate intellectual disability and 6% of persons with severe psychosocial disabilities did not choose where they wanted to live.⁶¹ A shortage of affordable and accessible rental houses in some municipalities is one of the factors that hinder persons with disabilities from leaving residential facilities and stands in the way of the full realization of their right to live independently.⁶² In the implementation programme this problem is recognized. The programme includes measures to improve the situation.

Suggestion for a question:

What are the results so far of the measures that the government has taken to ensure the availability of accessible and affordable houses for persons with disabilities?

For some persons with disabilities, living independently is only possible if they receive sufficient support. However, research shows that the support services available under the Social Support Act 2015 are not always easily accessible.⁶³ When seeking help from municipalities, some persons with disabilities find it difficult to navigate their way through the many different points of contact, rules and regulations, and other forms of excessive bureaucracy. A quarter of the people who applied to the municipality for support reported in early 2016 that they found this to be a very difficult process. Thus, the lengthy and complicated application procedures pose a serious

obstacle for those who need support and services to live independently. This is especially the case for persons with intellectual or psychosocial disabilities.⁶⁴

As the government rightly notes in its initial report, independent client support can play an important role in facilitating access to social care. After all, the aim of client support is to help the person involved with information and advice with regard to the application process. However, many people are still unaware of the fact that they have the right to receive such assistance free of charge.⁶⁵

Suggestion for a question:

How does the government encourage municipalities to increase awareness of independent client support amongst persons with disabilities?

22 Personal mobility (article 20)

Target group transport

As long as public transport is not 100% accessible, target group transport is necessary to guarantee personal mobility. Target group transport, which generally is commissioned and paid for by municipalities, does not always meet the required standards. Persons with disabilities experience that this kind of transportation does not always arrive on time, which results in coming too late at school, work or appointments.

Another specific problem exists in some municipalities refusing to provide for transport to the school a child with disabilities wishes to attend. They only provide for transport to the school which is nearest to the child's place of residence.⁶⁶ In order to comply with article 20 of the Convention, municipalities should take the rights of persons with disabilities into account in their transport system. For example by using quality and participation of persons with disabilities as criteria for tenders concerning target group transport.

61 Netherlands Institute for Human Rights, *Inzicht in inclusie II*, (Insight in inclusion II): Utrecht, 2018.

62 Netherlands Institute for Social Research/SCP, *Veranderde zorg en ondersteuning voor mensen met een beperking. Landelijke evaluatie van de Hervorming Langdurige Zorg (Changing care and support for people with disabilities. National evaluation of long-term care reforms in the Netherlands)*, Den Haag: SCP, 2018, p. 28.

63 See Netherlands Institute for Social Research/SCP, *Changing care and support for people with disabilities*, 2018, p. 14.

64 See Netherlands Institute for Social Research/SCP, *Changing care and support for people with disabilities*, 2018, p. 133.

65 See Netherlands Institute for Social Research/SCP, *Changing care and support for people with disabilities*, 2018, p. 16.

66 <https://iederin.nl/nieuws/18258/zorg-en-ondersteuning/brief-aan-kamer-visie-nodig-voor-betere-langdurige-zorg/>

Suggestion for a question:

What measures is the government taking to improve target group transport?

Neighbourhood buses

In some rural parts of the Netherlands public transport has been replaced by neighbourhood buses that are run by volunteers. These buses cannot be used by persons in a wheelchair. This means they are obliged to make use of target group transport. This results in not having equal access to neighbourhood buses. Article 20 (a) of the CRPD states that States Parties should facilitate the personal mobility of persons with disabilities *in the manner of their choice*.⁶⁷

Suggestion for a question:

What measures will the government take to establish that persons in a wheelchair can use neighbourhood buses?

Digitalization

Digitalization of society has as a result that it can be necessary to go online for certain services and information. This can be problematic for some persons with disabilities. For example, some websites are too complicated for persons with an intellectual disability. Or they are not accessible for persons with a visual impairment. If there are no alternatives, these persons depend on others to find information, fill out forms or pay online. Therefore it is important to have alternatives such as a service counter, a telephone number or the possibility of having contact per mail.⁶⁸

Suggestion for a question:

What measures has the government taken to ensure that there are alternatives for persons with disabilities who are not capable of accessing internet?

23 Freedom of expression and opinion, and access to information (article 21)

Dutch sign language

Dutch sign language is not recognized as an official language in the Netherlands. Persons who are dependent on sign language, encounter problems in accessing information. In 2016, a parliamentary bill on the recognition of Dutch sign language was submitted before the Second Chamber of Parliament.⁶⁹ To date, the proposal has not been adopted.

Television programmes

In February 2018 the Netherlands Public Broadcasting Agency announced that it will continue its experiment in transmitting certain television programmes with audio description.⁷⁰ This is a positive development. Nevertheless, the Institute is concerned about the limited range of television programmes in formats accessible for persons with a visual disability, and the fact that the public broadcaster has yet to offer this service on a structural basis. In addition, there currently is no legislation on audio description in the Netherlands. Furthermore the number of programmes with a sign language interpreter and subtitles is limited. This has a negative impact on the accessibility of information for persons who are deaf or hard of hearing.

Suggestion for a question:

What (legislative) measures will the government take to ensure that persons with a visual disability and persons who are deaf or hard of hearing have equal access to television programmes in accessible formats?

67 Beantwoording Kamervragen over de situatie dat het openbaar vervoer in dorpen niet altijd toegankelijk is voor rolstoelgebruikers (Members of parliament have asked government to answer questions concerning the accessibility of neighbourhood buses), 23 augustus 2018, 2018Z13270.

68 MEE NL (2018), *MEE Trend- en signaleringsrapportage 2018*. MEE NL: Utrecht.

69 Parliamentary Documents II, 2016-2017, 34562, no. 2.

70 NPO, *NPO gaat door met audiodescriptie voor blinden en slechtzienden*, 27 February 2018.

24 Respect for privacy (article 22)

Medical files

Municipalities, insurance companies and occupational safety and health institutions, regularly request clients to supply them with a copy of their medical file.⁷¹ This affects persons with disabilities in particular. People usually cooperate, because they are afraid that otherwise they will not receive welfare or insurance. Submitting medical information to others is only permitted if the patient has given informed consent. If the patient has been pressured to give this information, this cannot be considered as informed consent. When medical information is needed, organizations should make clear which information exactly they need. In many cases asking for the whole medical file is disproportional.

Suggestion for a question:

What does the government do to ensure that persons with disabilities are not pressured to unnecessarily hand in their medical file to organizations or municipalities?

Cameras in health care facilities

Health care facilities increasingly use cameras and microphones to keep an eye on clients during the night.⁷² According to article 22 of the Convention persons with disabilities should not be subjected to arbitrary or unlawful interference with their privacy, family or home. The use of cameras and microphones without informed consent interferes with the privacy of the clients. This is only allowed if there is an objective justification and these measures are necessary and proportional.

71 Zie enquête van de Landelijke Huisartsen Vereniging (survey of the National Association of General Practitioners): <https://www.lhv.nl/actueel/nieuws/instanties-zetten-patient-onder-druk-om-medisch-dossier-te-krijgen> and Maaïke Langelaan et al., *Inzage in patiëntendossiers: Een onderzoek naar het opvragen van een kopie of inzage in het eigen patiëntendossier* (Research on requests to provide patients a medical record), NIVEL: Utrecht, 2018.

72 <https://nos.nl/nieuwsuur/artikel/2191465-ouders-gehandicapten-en-inspectie-zien-risico-s-zorg-op-afstand.html> en Post et al., *Woonvoorzieningen voor de meest kwetsbare doelgroepen in de gehandicaptenzorg* (Living accommodations for the most vulnerable targetgroups in the healthcare sector for persons with a disability), TNO-rapport Centrum Zorg en Bouw, 2009, p. 40.

Suggestion for a question:

How does the government ensure that the privacy of clients in health care facilities is guaranteed when making use of cameras and microphones?

25 Respect for the home and the family (article 23)

In Dutch legislation, reproductive rights for persons with disabilities are acknowledged. Measures for responsible parenting and reproductive rights, initiated by the government include legislation, support and information.⁷³ These measures are aimed to accommodate the tension between the right to start a family and the best interests of the child.⁷⁴ Forced anticonception is not an option, but people with intellectual disabilities are supported to use anticonception and are discouraged to start a family if (medical and social) professionals evaluate their situation as 'not good enough for parenting'.⁷⁵ The Institute has no information about the prevalence of these interventions, nor whether these are applied amongst men and women.

73 Ouders met een verstandelijke beperking en hun kinderen. Richtlijnen van de overheid 2011 (*Governancepsychosocial Guideline on parents with intellectual disabilities and their children*); Handreiking Kinderwens en anticonceptie bij mensen met een verstandelijke beperking 2005, herziening in 2016 (*Handout persons with an intellectual disability, the wish to found a family and anticonception*); MEE-signaal, Richtlijn kinderwens en ouderschap van mensen met een verstandelijke beperking 2009 (Guidelines on founding a family and parenting by persons with an intellectual disability).

74 Ibid.

75 KNMG, *Ouderschap van mensen met een verstandelijke beperking* (parenting by persons with an intellectual disability), Utrecht: 2006; Nederlandse Vereniging voor Obstetrie en Gynaecologie, *Modelprotocol mogelijke morele contra-indicaties bij vruchtbaarheidsbehandelingen* (Protocol possible contra-indications for fertility treatment), 2010; Willems et al., *Potentieel ouderschap voor mensen met een verstandelijke beperking; de rol van de arts* (Potential parenting by persons with intellectual disabilities; the role of the doctor), *Nederlands Tijdschrift voor Geneeskunde*, 2008: p. 152.

Suggestion for a question:

Can the government give information about the frequency and type of interventions relating to anticonception and support to persons with disabilities wishing to start a family?

26 Education (article 24)

Equal opportunities

Data shows that there are differences between persons with and without disabilities concerning education:

- In 2016 9% of the children with an intellectual disability dropped out of mainstream schools without a diploma⁷⁶ (whilst this is 2% for the general school going population).
- For children with a chronic illness or long term psychosocial disability this percentage was 4%.
- In 2016 8% of the children between 5 and 15 years old with an intellectual disability was not registered in schools (whilst this is 1% for the general population).⁷⁷

It is not clear what the causes are of these differences. Explanations could be that mainstream schools are critical about accepting children with disabilities or that parents prefer their child to go to a school for special education. A reason for children with disabilities dropping out of school could be that schools are not capable of providing enough assistance and accommodation for these children.

Suggestion for questions:

Which measures is the government taking to prevent children with disabilities from dropping out of school without a diploma?

How does the government ensure the right to education of children with disabilities in health care facilities?

Inclusive education

In 2016 96% of the children in the Netherlands were registered in mainstream primary schools and 4% in special primary schools. A large number of children with an intellectual disability went to special schools (67% of this group). Children with a chronic illness or a long term psychosocial disability also regularly attended special schools (17% of this group).

In 2016 84% of the children in the Netherlands were registered in mainstream secondary schools and 16% in special secondary schools. 86% of the children with an intellectual disability went to special secondary schools and 32% of the children with a chronic illness or long term psychosocial disability.⁷⁸

The existing Appropriate Education Act⁷⁹ and the Dutch Act on Equal Treatment on the Grounds of Disability or Chronic Illness⁸⁰ are not designed to realize inclusive education. As mainstream schools often are not equipped to accommodate children with disabilities, these children regularly end up in separate special schools. This would not be necessary if mainstream schools were designed to educate children with and without disabilities.

The government has announced that it will start a dialogue in the education sector about more inclusive education.⁸¹ It is also going to experiment with special and mainstream schools cooperating to provide integrated education for children with and without disabilities. These are good initiatives, because they can be the starting point of introducing inclusive education.

Suggestion for questions:

What are the results of the dialogue on and experiment with inclusive education and what are the next steps to realize inclusive education?

76 Startkwalificatie

77 College voor de Rechten van de Mens, *Inzicht in Inclusie II* (Insight in Inclusion II), Utrecht, 2018.

78 College voor de Rechten van de Mens, *Inzicht in Inclusie II* (Insight in Inclusion), Utrecht, 2018.

79 Wet Passend Onderwijs

80 Wet gelijke behandeling op grond van handicap of chronische ziekte

81 Impementatie programma, p. 20.

27 Health (article 25)

Access to health care

Persons who need treatment for psychosocial conditions often do not get timely care. Waiting lists for this kind of care exceed the norms that have been set. In some regions persons have to wait for half a year before they receive treatment and care, even though the norm for the first intake is 4 weeks after a request for care.⁸²

This can have serious implications, such as loss of a job, debts or worse. Several measures have been taken to reduce the waiting lists. A report of the Netherlands Health Authority shows that some progress has been made, but that more needs to be done to reduce the waiting lists.⁸³

Suggestion for a question:

What measures has the government taken to ensure that the waiting lists for psychosocial care do not exceed the norms that have been set?

Health care for persons with psychosocial disabilities living at home

Government policy is aimed at having more persons with a psychosocial disability living at home rather than in care institutions. These persons are entitled to outpatient health care. However, studies show that the availability of outpatient mental healthcare lags behind and that people with chronic psychosocial disabilities who live at home do not receive the care they need.⁸⁴

Suggestion for a question:

What measures has the government taken to ensure that persons with psychosocial disabilities living at home receive the health care they need?

Persons with non-visible disabilities

Health care facilities and services are not always well attuned to people with disabilities. Usually this has to do with insufficient knowledge. This applies in particular to non-visible disabilities, such as a minor intellectual disability, autism or a non-congenital brain disorder. For example, people with non-standard behavior are often taken to have psychosocial problems, though they might have one of the abovementioned non-visible disabilities.⁸⁵

Suggestion for a question:

How does the government see to it that health care professionals attain sufficient knowledge and skills with regard to persons with non-visible disabilities?

28 Habilitation and rehabilitation (article 26)

The Institute has found no issues relating to the right to habilitation and rehabilitation that need specific attention in this report.

82 <https://home.mediquest.nl/wachttijd-intake-ggz-45-instellingen-norm/>

83 Nederlandse Zorgautoriteit, *Voortgangsrapportage Wachttijden in de GGZ* (Report on waiting lists in the healthcare sector), Utrecht: 2017.

84 Inspectie Gezondheidszorg en Jeugd, *Toezicht op de ambulante ggz: Betere zorg voor thuiswonende mensen met chronische psychische aandoeningen* (Monitoring ambulatory mental health care: Better care for persons at home with chronic psychosocial disabilities), Utrecht: 2018.

85 MEE, *MEE Signaal. Trend- en signaleringsrapportage 2018* (Report on trends in 2018), Utrecht: 2018; MEE, *Eindrappportage NAH en LVB in het vizier* (Final report perceiving non-congenital brain disorder and minor intellectual disabilities), Utrecht: 2017.

29 Work and employment (article 27)

Employment rate

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 a number of 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 2012.⁸⁶ For persons who used to do sheltered work, the chances of finding a job have even decreased from 50% to 30%.⁸⁷

As an outcome of the so-called Social Agreement 2013, between employers, trade unions and the government, a number of 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.⁸⁸ 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 illness, 64% for persons with a physical disability and 78% for persons with a severe psychosocial disability.⁸⁹

The support measures for persons with disabilities are often complicated and bureaucratic and deter some employers from recruiting persons with disabilities.⁹⁰

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.⁹¹

Suggestion for a question:

What measures has the government taken to increase the labour participation rate of persons with disabilities and what are the effects of these measures?

30 Adequate standard of living and social protection (article 28)

Poverty

Official statistics on poverty in the Netherlands are collected and reported by Statistics Netherlands (CBS) and the Social and Cultural Planning Bureau (SCP). In the last report on poverty and social exclusion with figures from 2017, there was no specific data regarding poverty rates among people with disabilities.⁹² In general people with disabilities have problems realizing their right to work, adequate standard of health, housing and education.⁹³ Thus they are at high risk of poverty due to their disability. Specifically, people with disabilities depend on social welfare and social security due to their relatively poor employment rate and they depend on social housing more than people without disabilities. Thus cuts in social welfare, as well as budgetary cuts in social housing and health care affect people with disabilities more than others.

86 College voor de Rechten van de Mens, *Inzicht in Inclusie II* (Insight in Inclusion II), Utrecht: 2018; College voor de Rechten van de Mens, *Inzicht in Inclusie* (Insight in Inclusion), Utrecht: 2016.

87 https://www.scp.nl/Nieuws/Invoeren_Participatiewet_en_afsluiten_sociale_werkvoorziening_heeft_baankansen_Wsw_doelgroep_verminderd.

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

89 Centraal Bureau voor de Statistiek, *Meting IVRPH-indicatoren 2016* (Measurement of CRPD indicators 2016), 2018; NIVEL, *Meting indicatoren voor monitoring van het VN Verdrag voor de rechten van mensen met een handicap; stand van zaken 2012-2016 in Nederland* (Measurement of CRPD indicators 2012-2016), Utrecht: 2018.

90 College voor de Rechten van de Mens, *VN-verdrag handicap in Nederland 2017* (Report of the Institute on the CRPD in the Netherlands), Utrecht: 2017.

91 <https://www.rijksoverheid.nl/documenten/kamerstukken/2018/09/07/kamerbrief-breed-offensief-om-meer-mensen-met-een-beperking-aan-werk-te-helpen>.

92 CBS, *Armoede en Sociale Uitsluiting 2018* (Poverty and social exclusion), 2018.

93 College voor de Rechten van de Mens, *Armoede, Sociale Uitsluiting en Mensenrechten: jaarlijkse rapportage 2016* (Report of the Institute on Poverty, Social exclusion and Human Rights), Utrecht: 2017.

Research also shows that the income of certain groups, specifically of youth with disabilities, deteriorates significantly when they live together with their partner or start to work.⁹⁴ Also finding affordable adequate housing has become difficult for these groups.

Debt and disability

For everyone debt leads to serious problems with health and work. Debt is a major problem, in particular for people with disabilities. Increase in costs related to (health) care and cuts in compensation have increased the likelihood of debt among persons with disabilities.⁹⁵

A specific problem is that problematic debts occur relatively often for people with a minor intellectual disability. Research shows that the support they receive is inadequate.⁹⁶ Professionals who support them do not sufficiently recognize the disability and have too little knowledge on the impact of the disability on behavior by this group. This group is extra affected as they are often not capable of solving the problem and preventing escalation. Policy is focused primarily on self-reliance and not on ongoing support. This has a negative effect on the individuals.

Homelessness

There is a sharp increase in homelessness in the Netherlands.⁹⁷ Research on homelessness in the Netherlands shows that a high number of homeless people have severe psychosocial disabilities and almost all have specific needs in terms of multi-disciplinary care.⁹⁸ Many of the homeless fall within the realm of the Convention.

94 M. Dutij en L. Mallee, *Financiële drempels op weg naar meer participatie* (financial barriers for participation), Regioplan, Amsterdam: 2017.

95 Ieder(in), Patiëntenfederatie Nederland, Mezzo, MIND, Per Saldo, *Meldactie stapeling zorgkosten* (Reports on multiple costs for health care), 2017; NIBUD, *Zorguitgaven van chronisch zieken en mensen met een beperking in 2011 en 2016 vergeleken* (Comparison of health care costs for persons with disabilities in 2011 and 2016), 2016; Nibud, *Koopkracht van mensen met een beperking of chronische ziekte in 2017-2018* (Purchasing power of persons with a disability), 2017.

96 Nadja Jungman et al., *LVB, schulden en werk* (light intellectual disability, debts and work), Hogeschool Utrecht, Hogeschool Leiden, SBCM en MEE NL, 2018.

97 CBS, *Aantal daklozen in zes jaar met driekwart toegenomen*, 2016; College voor de Rechten van de Mens, *Mensenrechten in Nederland 2017 – Jaarlijkse rapportage* (Yearly report of the Institute 2017), Utrecht: 2018.

98 C. van Everdingen, *De Utrechtse nachtopvang en crisisopvang in beeld* (Night and crisis shelters in Utrecht), EZC, 2016; C. van Everdingen, *Verwarde mensen op straat* (Confused persons on the streets), Leger des Heils en VEZC, 2015; C. van Everdingen, *Daklozenzorg in den Haag: de keten is zoek* (Care for the homeless in the Hague), VEZC, 2017.

Reports indicate prevention, support for homeless and care after leaving institutions as inadequate.⁹⁹ They also conclude that lack of adequate housing is particularly problematic for this group.

Suggestion for questions:

Is the government going to collect specific data regarding poverty rates among people with disabilities?

What measures will the government take to address poverty, the affordability of (health) care, debt and homelessness under persons with disabilities?

31 Participation in political and public life (article 29)

In 2017 and 2018 the Institute carried out research into the accessibility of the election process of the general elections (2017) and the municipal elections (2018). The outcome indicated that the elections were insufficiently accessible for persons with a visual or intellectual disability. Persons with visual impairments encountered problems with the accessibility of the voting booth and the use of the ballot paper. Persons with intellectual disabilities complained that the voting process, including the information from political parties, was too difficult to understand. Other complaints concerned the physical accessibility of polling stations.

The Elections Act allows assistance only for persons with physical disabilities, including sensory impairments. Persons with other types of disabilities are not entitled to assistance.¹⁰⁰ The research of the Institute showed that some electoral committee members did not allow assistance to persons with physical disabilities.

99 Brief van de rekenkamers van Den Haag, Utrecht, Amsterdam en Rotterdam, 24 mei 2018, *Ondersteuning G4-Rekenkamers naar de opvang en ondersteuning van dak- en thuislozen* (letter of financial monitoring bodies concerning support for the homeless); Rekenkamer Amsterdam, *Wachten op Opvang* (Waiting for shelter), 2017; Rekenkamer Den Haag, *Van de Straat* (Of the street), 2018; Rekenkamer Rotterdam, *Niet thuis geven* (Not at home), 2018; Rekenkamer Utrecht, *Opvang en zorg voor daklozen in Utrecht: knel in de keten* (Support and care for the homeless in Utrecht), mei 2018.

100 Article J28 Elections Act.

Furthermore several persons with an intellectual disability reported that they would have benefitted from assistance in the voting booth.

The government has taken up the issue of support in the voting booth for persons with intellectual disabilities. A dialogue is taking place with relevant stakeholders, including interest groups of persons with disabilities about the requirement to maintain the ballot secrecy and the need to be supported. The Institute notes with satisfaction that an amendment to ensure that all polling stations are accessible for persons with physical disabilities will enter into force on 1 January 2019. At the moment, 25% of all voting stations are supposed to be accessible.¹⁰¹

Suggestion for a question:

What is the current situation concerning assistance in the voting booth for persons with disabilities by a person of their own choice, as required by the Convention?

32 Participation in cultural life, recreation, leisure and sport (article 30)

The Institute notes that due to several initiatives museums are becoming more and more accessible for persons with disabilities.¹⁰² The accessibility of theatres and events however is lagging behind. In some cases persons with an intellectual disability cannot obtain tickets, because it is only possible to buy these on websites that are inaccessible for them. Furthermore the number of persons with disabilities working in the cultural sector as a performer or otherwise seems to be low.

Despite the measures taken by the government, persons with severe physical disabilities often do not make use of sporting facilities or night clubs.¹⁰³

¹⁰¹ Article J5 Elections Act.

¹⁰² Zoals de jaarlijkse RAAK stimuleringsprijs en het project 'Onbeperkt erop uit' van de Zonnebloem (these are a few examples of initiatives to make museums more accessible).

¹⁰³ College voor de Rechten van de Mens, *Inzicht in inclusie II* (Insight in inclusion II), Utrecht: 2018.

This could, in part, be explained by the limited accessibility of clubs and sports buildings. In 2016, respectively 62% and 63% of these facilities was not accessible to persons with severe physical disabilities.¹⁰⁴

Suggestion for questions:

What measures has the government taken to ensure that leisure and sporting facilities are accessible to persons with disabilities?

What measures has the government taken to ensure the right to recreation and leisure?

33 Statistics and data collection (article 31)

The Institute has developed quantitative indicators on (1) independent living and inclusion in the community, (2) education, and (3) work and employment. The fact that the Institute has limited itself to three articles in developing and measuring quantitative indicators, is mainly dictated by the (limited) availability of data.

The development and measurement of indicators are accompanied by some difficulties related to article 31 on statistics and data collection. Depending on the specific quantitative indicator, data is not available on all persons with disabilities. The existing data collections on which the Institute relies are mainly based on standard questionnaire research by the national statistical office (CBS) and the Netherlands Institute for Health Services (NIVEL). These often exclude persons with severe intellectual disabilities or sensory disabilities, as well as people who reside in institutions. As a result, the participation of this group in society and the protection of their rights in this matter largely remains a blind spot. To include persons with severe intellectual or sensory disabilities in research, adapted methods are required.

In 2018 the national statistical office (CBS) launched the Monitor General Welfare (Monitor Brede Welvaart). This annual report aims to monitor the general welfare of Dutch society in social, economic and ecological terms.

¹⁰⁴ College voor de Rechten van de Mens, *Inzicht in inclusie II* (Insight in inclusion II), Utrecht: 2018.

In order to measure inequalities, it disaggregates data for gender, age, education status and migration status. However, data is not disaggregated for disability.

Suggestion for questions:

How is the government planning to collect data which is disaggregated by type of disability and gender?

Will the government include disaggregated data on disability in the Welfare Monitor (Monitor Brede Welvaart)?¹⁰⁵

To ensure disability inclusive development, criteria must be developed for all programmes and monitoring data on disability must be made available.¹⁰⁹ On a positive note, new policy for emergency aid pays attention to the needs of people with disabilities in all interventions.¹¹⁰

Suggestion for questions:

How will the government take the rights of people with disabilities into account in all development cooperation programmes?

How will the effect of these programmes on persons with disabilities be monitored?

34 International cooperation (Article 32)

Development cooperation programmes do not structurally take the rights of people with disabilities into account. There is one grant facility, which has persons with disabilities explicitly as one of its target groups.¹⁰⁶ Beyond this grant facility, there are no criteria in calls for proposals to ensure the inclusion of persons with disabilities, nor indicators to measure to what extent persons with disabilities have been included.¹⁰⁷

There is also no indication of the percentage of the Official Development Assistance budget being spent on disability inclusive programmes. The Dutch government has not yet adopted the OECD-DAC disability marker and does not report on progress made towards disability inclusion in its monitoring on the Sustainable Development Goals. The new policy on aid and trade ('Investing in Global Prospects')¹⁰⁸ makes explicit reference to disability inclusion only in humanitarian aid, but not in other priority areas such as sexual and reproductive health and rights programmes, food security, water, education, employment and trade investments.

¹⁰⁵ CBS, *Monitor Brede Welvaart 2018* (Welfare monitor 2018), Den Haag/Heerlen/Bonaire: 2018.

¹⁰⁶ VOICE Global Fund, <https://www.voice.global/>.

¹⁰⁷ Light for the World, <https://www.lightfortheworld.nl/2018/06/07/inzet-meest-achtergebleven-groepen-ontbreekt-nog-nota-kaag/>.

¹⁰⁸ Ministerie van Buitenlandse Zaken, *Investeren in Perspectief. Goed voor de wereld, goed voor Nederland* (Investing in Perspective. Good for the world, good for the Netherlands), 2018.

¹⁰⁹ Ibid

¹¹⁰ Ibid

Annex 1

View of the Institute
on the interpretive
declarations

Interpretative declarations

The government issued a total of seven interpretative declarations (with respect to Articles 10, 12, 14, 15, 23, 25, and 29). The Institute notes that the interpretative declarations issued with respect to Articles 14 and 23 of the CRPD *de facto* concern provisos that may not be made. This is discussed in more detail under Articles 14 and 23, below. The general rule is that restraint should be exercised when issuing provisos and interpretative declarations. The Institute questions the necessity and legitimacy of the proposed interpretative declarations. Refer to the below for an explanation.

Article 10

At the time of signing and ratifying the CRPD, the government issued an interpretative declaration about the right to life. The Institute in this connection refers to Article 6 of the Convention on the Rights of the Child and Article 6 of the International Covenant on Civil and Political Rights. These conventions include the right to life without specifying at what time this right to life starts. The Netherlands did not issue a proviso or interpretative declaration with respect to these Articles. As the CRPD further defines this existing right, no interpretative declaration is required. Incidentally, this Article concerns a non-discrimination clause. It provides sufficient leeway for a balancing of interests in cases where a situation of unbearable and unremitting suffering comes to exist, provided that persons with a disability can enjoy their right to life on the basis of equality. The Institute points out that this interpretative declaration forms a specific interpretation of the CRPD. In addition, the declaration has the scope of the clause depend on national legislation, which is problematic in legal terms. The Institute in this connection refers to the advice rendered by the Council of State, which states that there is room to consider the declaration to be a proviso.

Article 12

The General Comment on Article 12 states that if persons with a disability are unable to independently make a decision, they require support. The core principle of Article 12 is that decisions should not be made for persons with a disability (substitute decision-making), but that they make decisions themselves and receive support in this where required (supported decision-making). This also applies to persons with an intellectual or psychosocial disability. The government issued an interpretative declaration which states that it interprets this Article to provide that the CRPD permits supporting and substituting decision-making arrangements in appropriate circumstances and in accordance with the law in situations where such is necessary, i.e., when it concerns a last resort, and is subject to certain safeguards.

The interpretation provided by the government does not seem to be in agreement with Article 12 and the General Comment on this Article.

Article 14

The government has issued an interpretative declaration about this Article. Such a declaration is not necessary. For the CRPD refers to deprivation of liberty on the basis of the mere existence of a disability. As the deprivation of liberty must be based on the danger a person poses to themselves or to their surroundings, it is evident that it is not based on the mere existence of a disability.

Article 15

The government has issued an interpretative declaration about this Article that states that the term “consent” is interpreted in accordance with other international instruments, such as the Clinical Trials Directive (2001/20/EC) and national legislation that is in agreement therewith. The Netherlands considers the objective of this Article in the light of the balance between providing sufficient protection to the trial subject on the one hand and the development of medical science for vulnerable patient groups and the development of new therapies or diagnostics on the other. This interpretative declaration contains the risk that regulations might allow for subjecting persons with a disability who are incapable of performing legal acts to medical or scientific experiments without them having been able to grant consent.¹¹¹

Article 23

At the time of signing and ratifying the CRPD, the government issued an interpretative declaration about Article 23(1)(b), which refers to the interest of the child. The Institute deems this declaration to be unnecessary and even undesirable. The Kingdom of the Netherlands is bound to observe the Convention on the Rights of the Child (CRC). Pursuant to Article 3 of the CRC, the interest of the child must always be of primary consideration. However, Article 23(1)(b) of the Convention on the Rights of Persons with Disabilities does not relate to the child, but to the unconceived child and the desire of persons with a disability to have children. The remaining sections of Article 23 relate to situations actually involving children and they explicitly refer to the interest of the child. The Institute is of the opinion that the interest of the child is referred to in the right places in Article 23.

¹¹¹ Advies College voor de Rechten van de Mens inzake het voorstel tot wijziging van de Wet medisch wetenschappelijk onderzoek met mensen (Advice of the Institute concerning the proposal to change the Medical Research (Human Subjects) Act), 12 December 2013.

In addition, the Institute is of the opinion that this interpretative declaration is contrary to the spirit and purport of the CRPD. For it suggests that an exception to the rights provided by Article 23(1)(b) is allowed in the interest of the (unconceived) child. In so doing, (ir-)responsible parenting is related to having an (intellectual) disability and intervention in the interest of the (unconceived) child is being justified. The Institute is of the position that this is contrary to the CRPD, as it discriminates between people with and without a disability.

Article 25

The government has issued an interpretative declaration about sections (a) and (f) of this Article. The reason for the declaration issued with respect to section (a) is stated to be the fact that medical grounds may play a role in determining the nature and range of offering assistance. The offering of fertility techniques in relation to responsible parenting and the interests of the child wished for is provided as an example. When offering IVF, for instance, the medical factors determining the likelihood of success as well as the interests of the child wished for and the responsible parenting possibilities of the prospective parents are considered. The government states that this may mean that a disability could preclude a specific offer for care. The Institute finds that the distinction between (prospective) parents with and without a handicap made in this connection conflicts with the prohibition of discrimination provided in Article 5 of the CRPD. This interpretative declaration is also contrary to the respect for family life provided in Article 23(1) of the CRPD.

Article 25(f) provides that the State must prevent discriminatory denial of healthcare, health services, foods and fluids on the basis of disability. The government provides as a reason for its interpretative declaration about this section that the wishes of a person in this connection must be respected. This interpretative declaration is unnecessary. Section (f) intends to protect persons with a disability from being denied care due to decisions made by third parties. It follows from the general principle of the CRPD that the wishes and preferences of persons with a disability must be respected. The interpretative declaration does not provide any addition thereto.

In addition, the Explanatory Memorandum to the Act approving the CRPD with respect to section (f) states that deciding not to provide pointless medical aid does not constitute unlawful discrimination and that the provision of foods and fluids may be stopped on medical grounds. This has been added to the interpretative declaration about section (f). The Institute in this connection notes that the CRPD provides that the wishes and preferences of the person concerned must be respected in this situation, too.

Article 29

The government declares that the term “assistance” in this Article is to be interpreted as assistance to be provided outside of the voting booth only, except for the assistance required due to a physical handicap, in which case assistance can also be allowed inside the voting booth. The CRPD requires that assistance must be allowed inside the voting booth by a person of one’s own choice. For this reason, the declaration must be revoked and the Elections Act must be amended.

Annex 2

Complaints about
discrimination on the
ground of disability
or chronic illness

Since July 2016 there has been a remarkable and considerable increase of reported complaints about discrimination based on disability or chronic illness in the Netherlands. However, as the Institute reports an increase of complaints and opinions on this ground already from 2014 on, the increase of reported complaints on this ground cannot be caused by the Convention's ratification in 2016 alone.

In 2015 there were 16% more discrimination *complaints* than in 2014, in 2016 20% more than in 2015 and in 2017 30 % more than in 2016 (the Institute's Annual Report 2017, p. 20). The Institute reports an increase of the *requests* for an opinion on this ground from 90 in 2016 to 124 in 2017, which is more than on any other discrimination ground the Institute receives complaints about. Moreover, in 2017 30% of all the Institute's opinions relates to the ground of disability or chronic illness. That is 49 out of 151 opinions (The Institute's Monitor discrimination cases 2017, p. 12, 28; the Institute's Annual Report 2017, p. 20).

The national Anti-Discrimination Bureaus (ADV's) also report a considerable increase of reports on discrimination related to handicap or chronic illness over 2017 in comparison to 2016: from 404 reports to 572 reports (Discrimination figures in 2107, p. 4).

In 2017 most of the people's questions and 22% of their complaints at the Institute concern disability/chronic illness (Monitor discrimination cases 2017, p.10). By far most of the opinions of the Institute related to handicap or chronic illness (29%) (Monitor discrimination cases 2017, p.12; see table 13 and 8 of the Tables Monitor Discrimination cases 2017). In 20 of the 46 cases concerning handicap or chronic illness the Institute ruled 'unlawful discrimination' (Monitor discrimination cases 2017, p.12).

Goods and Services

In 2017 most of the discrimination complaints (49%) filed at the Institute related to the area of 'goods and services' (including education) concerned the ground handicap or chronic illness (57 complaints).

Employment

To find or maintain a paid job is one of the three most important issues that persons with a disability or chronic illness complain about at the Institute. In 2017, 26% of all discrimination complaints about handicap or chronic illness filed at the Institute were related to employment (Monitor discrimination cases 2017, p. 12). Figures of Statistics Netherlands (CBS) show that in 2017 more than twice as many persons with a disability or chronic illness (arbeidsgehandicaptten) were unemployed compared to persons without a handicap or chronic illness (respectively 72,5% and 32,2 %, CBS statline, 2018).

Government and public services

A remarkably high percentage of the requests for an opinion of the Institute that do not apply to an area of the Equal Treatment Act relate to actions of the (local) government. These complaints often focus on public services (Monitor discrimination cases 2017, p. 12). A large part of these requests concern public bodies that do not grant allowances, social security benefits, facilities etc. to persons with disabilities (Monitor discrimination cases 2017, p. 12). In 2017, 11% of the complaints at the ADV's relate to discrimination by public bodies. The majority of these complaints relate to disability or chronic illness. (Discrimination figures in 2017, p. 44).